



Appeal Decision

Inquiry opened on 11 December 2018

Site visits made on 11 & 20 December 2018

by Philip Major BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th March 2019

Appeal Ref: APP/W3520/W/18/3200941

Land west of Old Norwich Road, Ipswich IP1 6LH

- 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 Ashfield Land Limited against the decision of Mid Suffolk District Council.
 - The application Ref: 1832/17, dated 10 May 2017, was refused by notice dated 28 March 2018.
 - The development proposed is the erection of up to 315 dwellings, vehicular access to Old Norwich Road, public open space, and associated landscaping, engineering and infrastructure works.
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Preliminary Matters

1. The application was submitted with all matters except access reserved for future consideration. However, prior to the inquiry the Appellant asked that access be added to the reserved matters so that the proposal could be considered as a wholly outline proposal. Whilst initially opposing this request the Council agreed that there would be no prejudice to any party as a result of the further public consultation carried out by the Appellant. I agree that no prejudice to any party would result given this further consultation exercise, and on that basis I have accepted the amendment to the application. My consideration is based on all matters being reserved for future consideration. The drawings to be considered are numbered 1002 (Site Location Plan) and 3501 (Development Parameters).
2. The Appellant has indicated that were I minded to dismiss the appeal for the whole scheme, it would be open to me to issue a split decision. As the site is split into 2 distinct parcels this seems to me to be an option which I could, if appropriate, follow. The northern part of the appeal site is clearly severable from the southern part. The southern parcel of land is that which is suggested might be developed even if the northern parcel was deemed unacceptable. In accordance with established case law¹ there would be no prejudice caused to any party consulted on the original, larger, scheme since the nature of the proposal would be the same, but its extent and impact would be reduced. The southern section would, on the basis of the representations made, accommodate up to 190 dwellings. The land involved in the smaller scheme is shown on drawings numbered 1005 (Site Plan – Southern Land Parcel) and 3502 revA (Development Parameters).

¹ Inquiry documents 3 and 4

3. Parts of the appeal site (and in combination with other sites) are located within the zones of influence of protected European sites, these being the Stour and Orwell Estuary Special Protection Area (SPA/Ramsar site) and the Deben Estuary SPA/Ramsar site. Both are also Sites of Special Scientific Interest (SSSI). For brevity I will refer to them as European sites. Following recent case law² I am required to carry out an Appropriate Assessment (AA) under the Habitats Regulations. I also have a duty, which I have fulfilled, to consult with Natural England. I deal with the AA later.
4. The parties agree that the Council is unable to demonstrate a 5 year supply of deliverable housing sites. Although the Council does not accept that the supply is as low as 3.4 years (as set out in a recent appeal decision³) it nonetheless does not contest the fact that it cannot demonstrate a 5 year supply.
5. An obligation pursuant to S106 of the 1990 Act was submitted, by agreement, subsequent to the close of the inquiry. The obligation deals with a number of matters relating to financial contributions, the provision of affordable housing, open space provision and management, and travel plans. I have taken note of the statements of compliance with the Community Infrastructure Levy Regulations which were submitted with evidence. On the basis of the contents of the obligation and the compliance statements I am content that all matters conform to the CIL Regulations and that the obligation can be taken into account if planning permission is to be granted.
6. The parties have been given the opportunity to comment on the recent revisions to the National Planning Policy Framework (NPPF) 2019 and the publication of the housing delivery test results. I have taken due note of the comments received in reaching my decision. However, in essence, there is agreement that the only significant change relates to the AA and its relationship with the presumption in favour of sustainable development in the revised NPPF.

Decision

7. The appeal is dismissed insofar as it relates to the northern parcel of the application site shown on drawing No 1004 within the S106 obligation dated 8 January 2019. The appeal is allowed insofar as it relates to the southern parcel of land as delineated by the red line on drawing No 1005, dated December 2018 and planning permission is granted for the erection of up to 190 dwellings, vehicular access to Old Norwich Road, public open space, and associated landscaping, engineering and infrastructure works at land west of Old Norwich Road, Ipswich IP1 6LH in accordance with the terms of the application (as amended) Ref: 1832/17, dated 10 May 2017, and subject to the conditions set out in the schedule at the end of this decision.

Main Issues

8. The main residual issues⁴ in the appeal are:
 - (a) The impact of the proposed development on the local highway network;
 - (b) The impact of the proposals on the character and appearance of the surrounding landscape;

² *People over Wind, Peter Sweetman v Coillte Teoranta*

³ APP/W3520/W/18/3194926 dated 28 September 2018

⁴ Following the addressing of some of the reasons for refusal of planning permission prior to the inquiry

- (c) The impact of the proposals on the living conditions of future residents and nearby residents;
- (d) The impact of the proposals on heritage assets;
- (e) The benefits of the proposals and the overall planning balance.

Development Plan Policy Background

9. The development plan in this case includes the saved policies of the Mid Suffolk Local Plan (LP) and the Local Plan First Alteration (LP1), the Mid Suffolk Core Strategy (CS) and the Core Strategy Focused Review (CSR). Although a great many policies in the development plan are agreed in the Statement of Common Ground as being relevant, there is a more limited reliance on a small number of policies which have particular importance to this case.
10. CS Policies CS1 and CS2, together with LP Policy H7, set out a settlement hierarchy and seek to restrict development in the open countryside (this site being in open countryside). It is agreed that these policies are out of date because the Council cannot demonstrate a 5 year housing land supply and the Council does not seek to rely on them. Nevertheless the proposal is in conflict with these policies and they must be considered in the planning balance. However the weight to be attached to conflict with these policies is limited⁵.
11. The CSR includes Policies FC1 and FC1.1 which are of relevance. FC1 follows the guidance of the 2012 National Planning Policy Framework (NPPF) in that it supports sustainable development. The policy recognises that there may be situations when policies are out of date, and in those circumstances it seeks to facilitate the granting of planning permission unless material considerations indicate otherwise. The policy makes specific reference to the then NPPF paragraph 14 assessment and restrictive policies in the NPPF. I note here, though, that there is no equivalent limitation in Policy FC1 to that included in paragraph 177 of the 2018 NPPF⁶ and which was also contained in paragraph 119 of the 2012 NPPF. It is axiomatic that regard must have been had to the 2012 NPPF when drawing up Policy FC1, and paragraph 14 of that NPPF cross refers at footnote 9 to paragraph 119 of the document. Hence, although there is no specific reference in FC1 to the presumption in favour of sustainable development being 'removed' if appropriate assessment is needed, it seems to me to be at least implied.
12. In any event, even if there was a deliberate decision to seek to exclude the limitation of paragraph 119 it would have led to some inconsistency with the NPPF at that time. That inconsistency was carried forward following the publication of the 2018 NPPF. In the end, though, this is not a matter on which this case turns because of the revision in the NPPF issued in February 2019. As set out there, if an appropriate assessment is carried out and concludes that the scheme will not adversely affect the integrity of the European sites then the presumption in favour of sustainable development can apply. Policy FC1.1 essentially explains how Policy FC1 is to be implemented. It sets a number of general criteria.

⁵ The Inspector at the appeal cited earlier (3194926) attaches moderate weight, so the lack of full weight is agreed, and the differing gradation of weight makes no material difference in this case

⁶ That the presumption in favour of sustainable development did not apply where development requires appropriate assessment

13. Core Strategy Policy CS5 seeks to ensure that the landscape of the district and the historic environment are protected in an appropriate manner, and that development is of high quality design. However, it goes further than the statutory duty to have regard to the desirability of preserving or enhancing heritage assets, and the advice in the 2019 NPPF. For that reason its weight is limited.
14. Other policies of importance include LP1 Policy H4 in that it deals with affordable housing. It seeks up to 35% provision. It is agreed that this proposal accords with that policy. Similarly there is no dispute that the proposal is in accordance with, or can be designed to be in accordance with, those policies dealing with safe access, planning obligations and the design of development.
15. The Council, in conjunction with the neighbouring authority, has embarked on the preparation of a joint Local Plan. It is agreed that the early stage of this plan means that it carries little weight in this case.

Reasons

Highway Impact

16. It is not disputed that a suitable access point or points could be taken from Old Norwich Road. This would lead to traffic entering the wider network from Old Norwich Road principally at the 'Bury Road'⁷ junction to the south. The highway authority in this case has no objection to the proposals subject to the payment of contributions towards the improvement of local network junctions, or the improvement of the junctions themselves.
17. Traffic from the development (or the smaller development in the event of a split decision) would also impact upon the Whitton Church Lane junction. This gives priority to traffic on Old Norwich Road, but is at present mainly used by traffic flowing into and out of Whitton Church Lane. It is acknowledged that the configuration of the junction would require changes (at present it is unusual in having some block paving on the priority road) but a scheme has been drawn up to cater for that. This is not a matter of significant dispute between the main parties and I agree that as a technical exercise the junction can be altered to function satisfactorily.
18. The Bury Road junction situation is of greater dispute. There is a current scheme designed to address increases in traffic from the appeal proposals (the Figure 8.1b design). The highway authority is content with the scheme, but in light of other expected developments nearby it has indicated that an alternative and more comprehensive scheme would be preferred. However no such scheme has been designed as yet. Taking account of these other potential developments it is the highway authority's view that contributions to a more comprehensive scheme are preferable to the Figure 8.1b scheme being implemented, even if this would mean the final improvements took longer to bring about. In short, it favours the possibility of short-term pain for longer-term gain on the network.
19. To that end it is suggested that a financial contribution alone would be the appropriate course of action, which could be added to other contributions to fund an anticipated and more comprehensive junction scheme. However, I do

⁷ The term for the junction used by all parties at the inquiry

not accept that that would be a wise course of action in relation to the scheme as a whole because I have no information at all on when or whether a more comprehensive scheme for the junction might be brought about. In addition there is limited information on the timing of any of the other anticipated developments. Hence there is much uncertainty surrounding the comprehensive scheme favoured by the Highway Authority.

20. Nor am I persuaded that a 'Grampian' condition would be appropriate here. Planning Practice Guidance (PPG) makes it clear that such conditions should not be used where there is no prospect of the action in question being performed within the time limit imposed by the permission. As noted I have no evidence at all that any comprehensive scheme for the Bury Road junction would be provided by the Highway Authority within the time limit of the permission. Similarly I have no evidence that there would be a willingness on behalf of the landowner (the County Council) to allow the Figure 8.1b scheme, to address this proposal alone, to proceed. This is especially so given its stated preference for a more comprehensive alteration to the junction.
21. Taken in the round it is my view that until more work is carried out on the more comprehensive junction improvements preferred by the Highway Authority it is impossible to conclude that either that, or the Figure 8.1b scheme to mitigate the development on its own, is likely to be provided within a reasonable timescale. Allowing the proposed development in its entirety with unknown prospects for either of the junction improvements being implemented would not be a rational course of action as it would leave the potential for adverse highway conditions with no certainty of alleviation.
22. Turning to the actual impact of traffic, it is pertinent to note that the Bury Road junction already operates beyond capacity at certain times. It would still do so, but to a lesser extent, in the Figure 8.1b design. So if that scheme were to be implemented it would make the situation better if the appeal scheme were to be implemented alone. However, if it proved necessary to further revise the junction to cater for other future developments (the scenario the Highway Authority wishes to avoid) there would be clear potential for the network to suffer from delay and disruption for a prolonged period. It is impossible to quantify what the delay and disruption would be like in the absence of further information. But it is my judgement that the residual cumulative impact on the highway network has the potential to be severe.
23. However, the implications of development of the southern parcel alone are different. Traffic from the site would be significantly reduced. Any impact on the network even without a Bury Road junction improvement would also be reduced. Whilst it would be expected that the junction would be improved in one way or another in due course, the relatively short term potential for disruption here would be much lower. In my judgement any such reduction would be tolerable and would not result in a severe residual cumulative impact. I therefore take the view that development of the southern parcel only could be considered acceptable with a financial contribution being made towards a more comprehensive junction scheme.
24. There is some dispute about the actual design of the junction improvement so far brought forward (the Figure 8.1b design). Criticism is made of the configuration of the bus lane, left turn lane and cycle lane. Although not common (and not part of the experience of the Council's witness) I do not find

the junction design to be unacceptable or likely to present unacceptable safety implications. I am aware of similar configurations elsewhere, and in this case it seems to me that the design follows on from the first safety audit. The small loss of land in the lay by to the east of the junction is unlikely to make any practical difference to its use. My concerns about the junction therefore stem not from the technical possibility of mitigation, but from the likelihood of the junction being improved in a timely manner if the entire development were to be implemented.

25. The site is not far from the built up area of Ipswich. There are local facilities in the form of a nearby retail park, but it seems unlikely that most people would walk there. However, local schools are within walking distance, and I observed students walking and cycling during my site visits. I am also aware that Old Norwich Road is a designated cycleway, carries little through traffic because of the existing bus gate, and is a bus route. There are certainly alternatives to the private car available, notably cycling and buses. The bus service would be relatively close to the development (indeed in the larger scheme it is possible that the bus route would divert through the development). I am satisfied that the location of the site provides suitable alternatives to the use of the private car.
26. Pedestrian access along Old Norwich Road has been criticised because of the width of footways and the discontinuation of footways in places. I walked the length of Old Norwich Road from the likely access point to Bury Road on more than one occasion. It seems to me that the footway to the north of Whitton Church Lane has the potential to be improved by cutting back the overgrowth which has encroached. Although the junction with Whitton Church Lane has to be crossed if using the east side Old Norwich Road, it is possible to do so safely as a pedestrian. Thereafter the footway is sufficiently wide to the junction with Bury Road. On balance I consider that pedestrian access from the site to Bury Road can be made acceptable.
27. Taking this issue in the round it is my judgement that implementation of the entire scheme would have the potential to bring about a severe impact on the highway network, as set out above. That being the case there would be conflict with the NPPF.
28. In contrast the development of the southern parcel alone would be unlikely to have a severe impact and there would therefore be no conflict with the NPPF.

Character and Appearance

29. The appeal site is made up of 2 distinct areas. These can be described as the northern and southern parcels of land. They are divided by a substantial tree belt which crosses the land from east to west. The northern parcel includes the southern slope of a shallow valley and runs into that valley (as part of the identified area of Rolling Estate Farmlands (REA) in the Suffolk Landscape Character Study). The southern parcel is on the plateau land to the south of the valley where the valley side levels out (and is within the area known as the Plateau Estate Farmlands (PEA) in the same study). Additionally the Settlement Sensitivity Assessment (SSA) of July 2018 deals with the landscape fringes of Ipswich. The appeals site falls within the area designated IP1, and this includes parts of both the REA and PEA.

30. The SSA seems to me to include pragmatic assessments of the urban fringe around the appeal site, and in some ways this is more useful than the landscape character study. In particular I note that the sensitivity of IP1 is described as being associated with the small scale stream valley character and the dispersed pattern of built heritage. There is also recognition that the urban area of Ipswich occupies the plateau and is set back from the edge of the valley. In this context the SSA indicates that the landscape is highly sensitive to the visual intrusion of new development which has an urbanising influence on the character of the valley. These observations go to the heart of the case here.
31. In relation to the northern parcel the Council contends that it lies within a 'valued landscape'. The area identified for the purposes of evidence in this appeal centres on the valley and its slopes. However there is no statutory or other designation of the land which seeks to identify it as being valued. The main parties agree that it is helpful to consider value in relation to the Box 5.1 criteria set out in Guidelines for Landscape and Visual Impact Assessment, Third Edition. It is not necessary here to rehearse exhaustively all of the matters contained within Box 5.1. However I make the following observations based on the evidence I heard and my site visits:
- Landscape quality is variable and the effects of the A14, large pylons crossing the area, and visible structures on the edge of Ipswich are detractors from character. Quality, as would be expected, improves with distance from these influences.
 - Scenic quality and perceptual aspects are also heavily influenced by the above factors. Tranquillity is much reduced by the presence of the A14 in the vicinity of the site.
 - I do not accept that the landscape is rare. It seems to me to exhibit features which are commonplace throughout much of Suffolk and lowland Britain generally. There is nothing about the landscape which is particularly representative of any specific of its type.
 - No evidence has been adduced which indicates that this landscape has any unusual conservation interests, and there are no such designations.
 - The landscape is used by local people for recreation, and its proximity to residential areas in Ipswich gives it attraction in that respect.
 - There are no cultural associations or historical events which contribute to perceptions of this area.

Taking these matters together I have no doubt that it wrong to consider any of the appeal site to be a valued landscape in itself, or within a wider area which can be so regarded. It does not possess any qualities which take it beyond the ordinary. Even so I acknowledge that it is necessary to recognise the intrinsic character and beauty of the countryside in considering this issue.

32. Self-evidently, and as identified in landscape studies, the valley to the north (which includes the northern parcel) is different in character to the plateau to the south. The valley landscape is a pleasant and typical rolling English landscape with medium sized fields separated by hedgerows and tree belts. There is scattered settlement and a mixture of intimate and long range views.

- Valley sides are generally free from development. Although noisy the A14 is relatively inconspicuous and has spatially limited impact on the landscape.
33. Development of the northern parcel would have a significant impact on the landscape. It would introduce development on the valley side and lower slopes together with a road linking the 2 parts of the scheme. These would add an urbanising character which is absent from the valley generally. I agree that the valley sides are sensitive to development. The introduction of housing on the northern parcel would seriously and detrimentally impact on landscape character. This impact would be major to moderate.
 34. The southern parcel has a different character. It is relatively flat and close to the urban limits of Ipswich. Indeed I understand that the southern site boundary abuts land allocated for development. The land is perceived more as urban fringe than open countryside, and this is emphasised by the 2 lines of pylons and cables which cross it. In my judgement it has a moderate to low sensitivity to development, and the scheme would at worst have a moderate magnitude of impact on the character of the area.
 35. In visual terms the development would introduce an incongruous element into the landscape of the northern parcel. Even allowing for fleeting glimpses of the A14, and the nearby pylons, views towards the site from the north and east enable the viewer to perceive the attractive valley landscape, which hereabouts is relatively unspoiled. A large block of housing, with associated infrastructure, would be wholly at odds with the existing visual experience. I agree with the Settlement Sensitivity Study, which indicates that the landscape is sensitive to development which would urbanise the valley and lead to Ipswich spilling into the valley. The development would have a major and intrusive adverse visual impact notwithstanding that much of it would be on the lower slopes of the valley sides and within the valley bottom itself.
 36. The southern parcel is relatively enclosed in visual terms. It is bounded by development (or land allocated for development) to the south, and there are a number of dwellings to the east along Old Norwich Road. When added to the enclosure provided by the tree belt to the north and the A14 to the west the sense of visual enclosure is significant. In this respect it is correct to describe the land as being of limited sensitivity to development. Views into the southern parcel are heavily restricted, though I acknowledge that it would not be possible to hide the proposal entirely. Some perception of houses would be possible above trees and between landscaping. Nonetheless the visual impact of development would be minor.
 37. I address here the gap between Ipswich and Claydon. The gap is substantial and is not wholly undeveloped. However, that part of the gap beyond the southern lip of the valley to the north has a distinctly rural feel. The visibility of the northern part of the entire development would be seen as an urban outlier within the gap, and would diminish its effectiveness in separating the settlements. This adds to my concerns in relation to the impact on character and appearance.
 38. To some degree the noise barriers which would be inevitable in the event of development proceeding would be visible. But these would be internal to the site and would be unlikely to have any material impact on either the character or appearance of the land.

39. Taking all these matters into account the effect of the proposal can be summarised thus:

- For the entire scheme there would be a major to moderate adverse impact on landscape character and the appearance of the area. Although landscaping could be introduced to soften the impact over time this would not overcome the fundamental harm caused by the serious intrusion of development into the valley landscape;
- For the southern parcel there would be a moderate impact on character and a minor impact on the appearance of the area. Both of these impacts would be reduced over time if a suitable landscaping scheme were to be introduced at reserved matters stage.

40. In relation to the whole scheme as proposed there would be conflict with the provisions of Core Strategy Policy CS5, though as set out above that conflict is moderated by the fact that the policy is not wholly in accord with the NPPF. The conflict with this policy would be much reduced if the development were to be restricted to the southern parcel of land.

Living Conditions

41. The appeal site is close to the busy A14 dual carriageway. The traffic noise from that highway is evident at the site, with the highest perceived noise levels, unsurprisingly, being close to the road. I heard much evidence at the inquiry in relation to the potential impact of mitigation in the form of acoustic barriers between the site and the A14. The evidence shows that significant reductions in noise could be achieved with the introduction of barriers of appropriate construction and height. There is agreement that it is technically possible to achieve an acceptable noise climate both within and outside new dwellings on the site and that this can be controlled at reserved matters stage.

42. The Appellant has indicated that in any future reserved matters application it will not seek to take forward the provision of sports pitches close to the existing dwellings along Old Norwich Road. I therefore have no doubt that it would be possible to design a residential and open space layout which would have limited impact on existing residents. The noise climate would change for local residents, but not to the extent that it would be unacceptably harmful to their living conditions. As a result I find no conflict with the development plan or the objectives of the NPPF in this regard.

43. Residual noise concerns are maintained by the Council in relation to the impact of the change in the noise climate on the character of the nearby Whitton Conservation Area (CA). I turn to that matter next.

Heritage

44. My duty under S.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving or enhancing the character or appearance of a conservation area. The significance of the Whitton CA stems largely from remaining elements of the relationship between buildings, street pattern, open spaces and the rural hinterland to the north, which demonstrates its history as a small rural settlement sitting astride the main road north from Ipswich. It contains some historic buildings and a simple street layout. The removal of traffic when the A14 by-passed the area provided the impetus for designation so that the

village street scene could be protected. There is no disagreement between the main parties that the proposal would cause less than substantial harm to the character of the CA. No harm is alleged to the appearance of the CA itself or to listed buildings or their settings within it. I have no reason to disagree with these points.

45. It is common ground that it is the character of that part of the CA to the north of the junction with Whitton Church Lane which would be affected by increased traffic and activity. The disturbance would be largely noise generated, though the passing of traffic and pedestrians would also have a visual impact and reduce the perception of tranquillity to a degree. Even so the CA as a whole would be little affected by the development. Noise increases would be at or close to the lowest observable adverse effect level, and even if slightly greater would be unlikely to significantly affect the appreciation of the significance of the CA. The less than substantial harm identified would be close to being insignificant given the level of existing traffic in the CA. As the CA is outside the boundary of Mid Suffolk development plan policy from that Authority cannot apply here.
46. However, it is still essential that great weight attaches to the identified harm as set out in the NPPF. This must be balanced against the benefits of the proposal, and I turn to that shortly.

Appropriate Assessment

47. The appeal site is just over 6km from the nearest part of the European protected sites (in this case the Stour and Orwell Estuary) noted in paragraph 3 above, well within the 13km zone of influence. The site is some 12 km from the Deben Estuary, again within the 13km zone of influence. Each of the protected sites has a number of qualifying features including waterfowl and other species.
48. Consideration of the potential effects of the recreational use of the European sites by residents of the proposed development has been carried out. This concludes that there is likely to be a significant effect on the Stour and Orwell Estuaries through increased disturbance to qualifying species both alone and in combination with other plans or projects. With regard to the Deben Estuary it is concluded that there is likely to be a significant effect only in combination with other plans or projects in light of the distance of the appeal site from the estuary.
49. In order to mitigate any adverse effects on the European sites it is proposed to provide greenspace within the proposed development, and to promote the local footpath network, in order to reduce any recreational pressure on the Stour and Orwell Estuaries from the development. In relation to both European sites it is also proposed to make proportionate contributions to fund offsite visitor management measures in line with the emerging Suffolk Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). These matters are contained in the Report to Inform a Habitats Regulations Assessment (RIHRA)⁸.
50. Natural England has responded⁹ to the effect that it has no objection to the proposed development subject to appropriate mitigation being secured in line with the proposals in the RIHRA made by the Appellant.

⁸ Core Document 8.2

⁹ By correspondence dated 12 February 2019

51. The Planning Obligation pursuant to S106 of the 1990 Act (see above) deals with the provision of open space and contributions towards RAMS. The public open space is to be provided in accordance with a scheme to be agreed, which is to include specifications, plans and drawings, together with timings and triggers. As this is an outline application, the Council also retains further control over the layout of the open space. The RAMS contribution would be paid prior to development commencing. Taken together these mechanisms are sufficient to ensure that the mitigation necessary to avoid harmful effects on the European sites can be avoided.

Benefits of the Proposed Development and Planning Balance

Benefits

52. Benefits of the development principally extend from the provision of market and affordable housing in a location where there is an acknowledged shortfall of supply. The exact number of dwellings likely to be completed on this site in the 5 year period is unknown. Unsurprisingly the Appellant takes an optimistic view of delivery, whilst the Council is more circumspect. In reality the number is inevitably dependent to some degree on external factors which are difficult to predict. I take account of the fact that there have been expressions of interest from 3 independent parties who would wish to investigate the possibility of acquiring the land. This is an important factor, though it does not establish that the land would be sold, or when. In order for this site to be considered deliverable in the event of outline permission being granted there would need to be clear evidence that housing completions will begin on site within 5 years (as set out in the NPPF).
53. I do not doubt the intention to dispose of the land to a developer, but beyond that timing is uncertain. Any developer would need to submit a reserved matters application and discharge any necessary conditions prior to work commencing. I share the Council's view that the Appellant is being optimistic in lead-in times and annual delivery rates given the delivery achieved on other sites. Taking a pragmatic position based on the evidence I consider that actual delivery would be likely to fall somewhere between the expectations of the main parties. Even though it is likely to be lower than suggested by the Appellant housing delivery on the site carries significant weight in favour of the proposal notwithstanding that I accept that there would be a relatively limited supply from this site in the 5 year period.
54. New housing on the site would contribute to economic benefits in the form of direct jobs during construction, additional business for suppliers, Council Tax receipts, and the stimulation of additional future expenditure in local centres. This is a matter which is of moderate weight, though I acknowledge that any job provision and spending by residents of this site are likely to contain an element of job provision and spending displaced from elsewhere.
55. Green infrastructure would be provided on site and this would provide some benefit to local people in giving access to areas currently without public access (albeit in an urban fringe setting). Similarly green space could contribute towards expressed objectives for green corridors and a green rim to the north of Ipswich. The green spaces provided would be determined at reserved matters stage, and to some extent at least would be required with the development as mitigation. Such provision is not therefore wholly a benefit. However I give it moderate weight as a benefit.

56. The benefits above are important and significant when taken as a whole, particularly the provision of market and affordable housing. These benefits are clearly sufficient to outweigh the less than substantial harm to the Whitton Conservation Area.

Whole Scheme Planning Balance

57. The 'tilted' balance flowing from paragraph 11 of the NPPF (2019) is engaged because the appropriate assessment above concludes that the project will not adversely affect the integrity of the European sites, and the most important development plan policies for determining the appeal are out of date. That said the starting point here remains that the proposed development conflicts with the development plan, as set out earlier. However, the fact that policies are out of date or inconsistent with the NPPF reduces the weight of that conflict.
58. I have found that there would be significant harm to the character and appearance of the landscape from the whole scheme. I have also found that there would be likely to be harm in relation to the impact on the highway network, and that that impact would be likely to be severe (to the extent that it is possible to make a judgement based on the evidence before me). The harm caused by the development would be offset to a degree by the benefits of the proposal; those benefits being significant. Overall, however, it is my judgement that the harm would significantly and demonstrably outweigh the benefits. Thus, even with the 'tilted' balance applied the harm is so adverse that planning permission should not be granted as the development would not be sustainable.

Partial Scheme Planning Balance

59. Turning to the possibility of development on the southern parcel only, it is clear that the benefits would be largely the same, although reduced to a degree. However, the harm associated with this scale of development would be significantly less than for the entire scheme. Harm to landscape character and appearance would be at a level which would be very much reduced and would be capable of mitigation. Additionally impact on the highway network would be likely to be of a significantly lesser magnitude even if there is a delay in providing an improved Bury Road junction arrangement. Although there is still conflict with the development plan the benefits of the smaller scheme are compelling and outweigh the limited development plan conflict. In relation to the reduced scheme on the southern parcel of land the harm would not significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development here means that planning permission should be granted for the scheme on the southern parcel of land.
60. This is therefore a case where a split decision can be issued, and part of the development can be permitted.

Conditions

61. A list of suggested conditions was handed in at the inquiry. For the most part these are uncontentious. The conditions are listed under various topic headings, which I deal with in a similar manner. Where necessary I have amended wording to improve precision and enforceability.
- The reserved matters submission timetable is agreed as necessary to encourage speedy development.

- Transport related conditions are reasonable and necessary to ensure that access is satisfactory and that proper provision is made for occupants and visitors to the development. A construction management plan condition is necessary to ensure that the development phase is carried out in an acceptable manner. It is also necessary to include conditions to ensure that surface water does not flow onto the highway and to prevent refuse bins being stored on the highway. The provision of new bus stops is necessary to encourage bus use and can reasonably be required by condition.
 - Conditions are necessary to ensure that any unexpected contamination found on the land is properly dealt with.
 - Conditions dealing with drainage of the site are necessary to ensure that details are submitted which demonstrate that the site can be adequately drained, with subsequent management of the drainage network. It is also reasonable to require details of fire hydrants to be provided.
 - For reasons supporting a sustainable development conditions seeking the best possible broadband connections, and electric vehicle charging points, are reasonable and necessary.
 - Conditions which require an environmental management plan, and a biodiversity enhancement plan, together with other details for protecting or enhancing ecological resources are reasonable and necessary.
 - It is reasonable and necessary to include conditions which seek to ensure that landscaping carried out as part of the development is provided at the appropriate time, and replaced when necessary. Management of the landscape and protection of trees should also be ensured by condition.
 - A condition requiring the recording of any archaeological finds is reasonable and necessary in order that such finds are properly catalogued.
62. In addition, in light of my conclusions on the matter of the alteration to the Bury Road junction, and the provision of the contribution in the S106 obligation, I do not consider that it is also necessary to require a condition requiring that the junction be improved. It is also unnecessary to require conditions relating to the provision of secondary or emergency access points as these are adequately covered elsewhere. This applies equally to the provision of a bus gate (if needed at all in the smaller scheme).
63. A number of other suggested conditions are not necessary, as accepted at the inquiry, and I do not address them specifically here.

Overall Conclusion

64. For the reasons given above I conclude that the appeal should be allowed in part and dismissed in part.

Philip Major

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
- 3) The development hereby permitted shall commence not later than 1 year from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following drawings and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard:
Site Location Plan (Drawing No 1005);
Parameters Plan (Drawing No 3502 revA)
- 5) No part of the development shall be commenced until details of the proposed primary access to the eastern boundary of the site from Old Norwich Road (including the provision of any gates to be erected and visibility splays provided) have been submitted to and approved in writing by the Local Planning Authority. The approved access shall be laid out and constructed in its entirety prior to any other part of the development taking place. Thereafter the access shall be retained in its approved form.
- 6) Before the development is commenced, details of the estate roads and footpaths (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority.
- 7) Before the development is commenced a Construction Management Plan shall have been submitted to and approved in writing by the Local Planning Authority. Construction of the development shall not be carried out other than in accordance with the approved plan. The Construction Management Plan shall include the following matters:
 - a) parking and turning for vehicles of site personnel, operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) piling techniques;
 - d) storage of plant and materials;
 - e) programme of works (including measures for traffic management and operating hours);
 - f) provision of boundary hoarding and lighting;
 - g) details of the proposed means of dust suppression;
 - h) details of measures to prevent mud from vehicles leaving the site during construction;
 - i) haul routes for construction traffic on the highway network;
 - j) monitoring and review mechanisms;
 - k) details of delivery times to the site during the construction phase;
 - l) wheel washing facilities;
 - m) location and nature of compounds and storage areas (including maximum storage heights) and factors to prevent wind-whipping;
 - n) waste storage and removal;

- o) temporary buildings and boundary treatments;
- p) noise and vibration management (to include arrangements for monitoring, and specifically for any concrete breaking and any piling);
- q) litter management during the construction phases of the development;
- r) during any ground works/construction there shall be no burning of materials on the site;
- s) any external lighting associated with the development during any ground works/construction for the purposes of security and site safety shall prevent upward and outward light radiation.

Thereafter, the approved construction plan shall be fully implemented and adhered to during all phases of the development approved, unless otherwise agreed in writing by the Local Planning Authority.

- 8) Before the development is commenced details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained thereafter in its approved form.
- 9) No development shall commence until details of a construction surface water management plan detailing how surface water and storm water will be managed on the site during construction has been submitted to and agreed in writing by the local planning authority. The construction surface water management plan shall be implemented and thereafter managed and maintained in accordance with the approved plan.
- 10) No development shall commence until a scheme for the provision of fire hydrants has been submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented in full in accordance with the agreed details, including the timescale for provision.
- 11) A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. The CEMP (Biodiversity) shall include details of the following:
 - a) risk assessment of potentially damaging construction activities;
 - b) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
 - c) the location and timing of sensitive works to avoid harm to biodiversity features;
 - d) responsible persons and lines of communication;
 - e) use of protective fences, exclusion barriers and warning signs;
 - f) the containment, control and removal of Schedule 9 invasive species;
 - g) precautionary mitigation measures for small mammals (Priority Species).The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.
- 12) Prior to the commencement of development, a tree survey and arboricultural method statement in accordance with BS5837:2012 shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in full accordance with the approved statement.
- 13) Prior to the commencement of development a landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority. The content of the LEMP shall include the following:
 - a) description and evaluation of features to be managed;

- b) ecological trends and constraints on site that might influence management;
- c) aims and objectives of management;
- d) appropriate management options for achieving aims and objectives;
- e) prescriptions for management actions;
- f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) details of the body or organization responsible for implementation of the plan;
- h) ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- 14) Before development commences a reptile method statement shall be submitted to, and approved in writing by the Local Planning authority, and shall be implemented in full accordance with the agreed details.
- 15) Before development commences a skylark mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority. The mitigation shall be implemented in accordance with the approved mitigation strategy prior to the commencement of development.
- 16) No development shall take place until a feasibility study has been undertaken and submitted to the Local Planning Authority which investigates the potential for the dwellings hereby approved to be connected to super-fast and ultra-fast broadband. Should the study determine that such connection is feasible then details of the means by which the dwellings hereby approved may be connected to the utilities to be provided on site to facilitate super-fast broadband connectivity shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 17) Concurrent with the first reserved matters application, and any subsequent reserved matters application, details of a scheme for acoustic measures to protect residential amenity shall be submitted to and approved in writing by the Local Planning Authority and implemented in full in accordance with the approved details prior to the first occupation of the dwelling to which the measures relate.
- 18) Concurrent with the first reserved matters application a surface water drainage scheme shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be in accordance with the approved Flood Risk Assessment (FRA) by Hydrock, dated September 2017, and include:
 - a) dimensioned plans and drawings of the surface water drainage scheme;
 - b) further infiltration testing on the site in accordance with BRE 365 and the use of infiltration as the means of drainage if the infiltration rates and groundwater levels show it to be possible;
 - c) if the use of infiltration is not possible then modelling shall be submitted to demonstrate that the surface water runoff will be restricted to Q_{bar} or 2l/s/ha for all events up to the critical 1 in 100 year rainfall events including climate change as specified in the FRA;

- d) modelling of the surface water drainage scheme to show that the attenuation/infiltration features will contain the 1 in 100 year rainfall event including climate change;
- e) modelling of the surface water conveyance network in the 1 in 30 year rainfall event to show no above ground flooding, and modelling of the volumes of any above ground flooding from the pipe network in a 1 in 100 year climate change rainfall event, along with topographic plans showing where the water will flow and be stored to ensure no flooding of buildings or offsite flows;
- f) topographical plans depicting all exceedance flowpaths and demonstration that the flows would not flood buildings or flow offsite, and if they are to be directed to the surface water drainage system then the potential additional rates and volumes of surface water must be included within the modelling of the surface water system;
- g) when discharging into the chalk, the infiltration basin shall be no greater than 1m depth and shall be highly vegetated to protect ground water.

The scheme shall be fully implemented as approved.

- 19) Concurrent with the first reserved matters application details of the implementation, maintenance and management of the surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall be implemented and thereafter managed and maintained in accordance with the approved details.
- 20) Concurrent with the submission of the first reserved matters application, a biodiversity enhancement plan shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full accordance with the enhancement plan.
- 21) Prior to the commencement of works above slab level details of the areas to be provided for storage of Refuse/Recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out for each dwellinghouse before that dwellinghouse is brought into use and shall be retained thereafter for no other purpose.
- 22) No dwelling shall be occupied until the parking areas, carriageways and footways serving that dwelling have been constructed to at least binder course level or better in accordance with the approved details except with the written agreement of the Local Planning Authority.
- 23) No dwelling shall be occupied until 2 bus stops, including raised bus stop kerbs, bus shelters and bus information screens, have been constructed and made available in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.
- 24) The development hereby permitted shall not be occupied until details of all Sustainable Urban Drainage System components and piped networks have been submitted to and approved in writing by the Local Planning Authority for inclusion on the Lead Local Flood Authority's Flood Risk Asset Register.
- 25) Before the development is occupied details of the number, location and management of electric vehicle recharging points shall be submitted to and approved in writing by the Local Planning Authority. The details as approved shall be implemented prior to the occupation of any dwelling or in accordance with such phasing as may be agreed.
- 26) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written

approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

- 27) All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be approved, in writing, by the Local Planning Authority up to the first use or first occupation of the development. Any trees, hedges, shrubs or turf identified within the approved landscaping details (both proposed planting and existing) which die, are removed, seriously damaged or seriously diseased, within a period of 5 years of being planted or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and species.
- 28) The developer shall keep a written record of any archaeological heritage assets encountered during the excavation and construction phases of development in a manner proportionate to their importance and impact and keep a public record of this information.

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr R Taylor	Queen's Counsel
He called:	
Prof R Tregay BSc(Hons) DipLD FLI FRGS	Director, Robert Tregay Limited
Mr C F Bentley BSc(Hons) CEnv CSci MCIEH MIEEnvSc MIOA	Associate Acoustic Consultant, Sharps Redmore
Mr G Eves BSc CEng MICE MCIHT	Director, PFA Consulting
Dr J Edis BA(Hons) MA PhD MCIfA IHBC	Managing Director, Heritage Collective UK Limited
Mr G Robinson BSc(Hons) MA MRTPI	Associate Director, DLP Planning Limited

FOR THE APPELLANT:

Mr N Cameron	Queen's Counsel
He called:	
Mr R Lyons MSc MCILT	Director, Transport Planning Associates
Mr A Corkill BSc(Hons) MSc MIOA	Managing Director, Spectrum Acoustic Consultants
Mr A McQuire BA(Hons) DipLA CMLI	Associate Director, Aspect Landscape Planning
Mr M Timlin BSc(Hons) MA IHBC MRTPI	Director, Turley Heritage
Mr J Richards BA(Hons) MTP MRTPI	Director, Head of Planning South West, Turley

INTERESTED PERSONS:

Mr R Fisk	Local Resident
Mr G Bates	Local Resident

DOCUMENTS HANDED IN AT THE INQUIRY AND RECEIVED SUBSEQUENTLY

- 1 Opening submissions on behalf of the Appellant
- 2 Opening submissions on behalf of the Council
- 3 Extract from *Care Link and the Trustees of the Formby Settlement v SoS for the Environment and another*
- 4 Extract from *Kent County Council v SoS for the Environment and Another*
- 5 Addendum to the Statement of Common Ground on noise matters
- 6 Copy email to Prof Tregay from Mr R Mills of Place Services
- 7 Expression of interest in the land from Barratt Homes, dated 13 December 2018

- 8 Expression of interest in the land from Ipswich Borough Council, dated 26 October 2018
- 9 Letter from Jacksons Fencing relating to the erection of acoustic fences
- 10 Email from the Local Highway Authority expressing a preference for the option of a more comprehensive highway scheme
- 11 Bundle of correspondence between Prof Tregay, Place Services and the Council
- 12 Draft list of suggested planning conditions
- 13 Note from PFA Consulting in relation to the proposals for the Bury Road junction
- 14 Suggested condition relating to the provision of bus stops
- 15 Response from Natural England to the Appellant in relation to the Shadow Habitats Regulations Assessment Report
- 16 Statement from Mr Bates
- 17 Draft S106 Agreement
- 18 *R (Laura C and Others) v LB Camden, SoS for the Environment Transport and the Regions, and Barratt Homes Ltd*
- 19 Closing Submissions on behalf of the Council
- 20 Closing submissions on behalf of the Appellant
- 21 Signed and dated S106 Agreement
- 22 Response from Natural England dated 12 February 2019
- 23 Comments received relating to the revised NPPF February 2019

PLANS

- A Drawing No 1005 – site plan of the southern parcel
- B Drawing No 3502 revA – development parameters of the southern parcel
- C Drawing No 3202 revA – illustrative concept masterplan of the southern parcel (not an application plan)