



Appeal Decision

Inquiry held on 18-20 February 2014

Site visit made on 27 February 2014

by Isobel McCretton BA(Hons) MRTPI

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

Decision date: 16 June 2014

Appeal Ref: APP/D3505/A/13/2202631

Former Fleetwood Caravans, Hall Street, Long Melford, Sudbury CO10 9JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by David Wilson Homes against the decision of Babergh District Council.
 - The application Ref. B/12/00688/FUL/ETR, dated 1 June 2012, was refused by notice dated 23 July 2013.
 - The development proposed is erection of 51 dwellings with associated access, parking, open space and landscaping (following demolition of existing buildings) as amended.
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Decision

1. The appeal is dismissed

Procedural Matters

2. The appellant has submitted a s106 Unilateral Undertaking (UU) to address the Council's second reason for refusal. This would secure 18 dwellings as affordable housing units and financial contributions towards healthcare, education library space, waste recycling, footpaths and a travel plan to meet the additional need arising from the development. The Council maintained an objection to the UU on the basis that no Registered Social Landlord had been identified for the affordable housing units. This is not an unusual situation and, on the second day of the inquiry, this objection and hence the reason for refusal was withdrawn. I am satisfied that the UU, accepted by the Council and the County Council, meets the tests for planning obligations set out in the National Planning Policy Framework (2012) (the Framework) and the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010.
3. On 25 February 2014, shortly after the inquiry closed, the Council adopted its Core Strategy. At the Inquiry it was agreed that, through the Core Strategy process, the Council had identified a 5 year supply of housing land (The Inspector who conducted the examination concluded that it was 5.9 years' supply). In addition, Local Plan policies TP01 and TP02, cited in the reasons for refusal, were superseded.
4. On 6 March 2014 the Government published Planning Practice Guidance. This replaced the advice in a number of circulars and policy documents including Circular 11/95: *The Use of Conditions in Planning Permissions* and Circular 3/09: *Costs Awards in Appeals and Other Planning Proceedings*. The

main parties were given the opportunity to comment on the practice guidance, but no material issues were raised about its application to this appeal.

5. After the Inquiry had closed the Fleetwood Caravans Neighbourhood Group (FCNG), the Rule 6 party, sent information regarding a notification¹ under Part 3 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 0213 for a proposed change of use under Class J of the Order (i.e. Office Use (B1a) to Residential Use (C3)) at The Old Foundry. Under the terms of Class J the Council raised no objection. Again the main parties were given the opportunity to comment on this proposal and I have taken the representations made into account in this decision.

Application for costs

6. At the Inquiry an application for costs was made by David Wilson Homes against Babergh District Council. This application will be the subject of a separate Decision.

Main Issues

7. The main issue is whether the proposal would provide safe and convenient vehicular and pedestrian access.

Reasons

8. The appeal site lies to the west of Hall Street and comprises a vacant industrial site of about 1.62ha formerly used for the manufacture of caravans. About a third of the site is covered in buildings with the remainder hard surfaced. The site adjoins 2 bungalows and playing fields to the south. To the west is open countryside with a public footpath adjacent to the site and the Chad Brook and allotments in close proximity beyond. There is a 2-storey office building (The Old Foundry) and associated car park and residential properties to the northern side of the site and commercial properties fronting Hall Street, the main street through the village to the east. The access to the site runs between the Cock and Bell PH and Foundry House (ground floor shop/restaurant and upper floor offices with a residential unit, Foundry Villa, to the rear). As well as the appeal site, this access serves the pub car park, The Old Foundry and car park, and gives access to the residential and business units in Foundry House and Foundry Villa. There is also pedestrian access onto Cock and Bell Lane from the northern side of the site.
9. The site lies within the defined built up area of Long Melford and within a designated Special Landscape Area (SLA) as identified on the Proposals Map of the Babergh Local Plan Alteration no.2 (2006). About a third of the site, immediately to the rear of Hall Street, is within the Long Melford Conservation Area. The Conservation Area is based on the historic core of the village along the main road. A number of the commercial and residential buildings within the vicinity of the site are listed.
10. Long Melford is defined as a Core Village in the adopted Core Strategy i.e. one of the villages which should act as a focus for development. The Council accepts that the site has been appropriately marketed, without success, for commercial purposes as required by Local Plan policy EM24. Although local residents would like to see the site continue in employment use and the current

¹ Ref. B/14/00208/OFDW dated 17 April 2014

lawful use of the site is for Class B2 use, in policy terms there is no objection in principle to redevelopment for residential purposes.

11. The proposal is for a development of 51 dwellings comprising 6 x 1-bed, 8 x 2-bed, 7 x 3-bed, 25 x 4-bed and 5 x 5-bed. The dwellings would be mainly 2-storey with 8 x 2½-storey. 18 dwellings would be affordable units. The layout would consist of a central open space surrounded by terraced houses on 3 sides with detached and semi-detached houses decreasing in density towards the peripheries of the site. The trees and vegetation on the western and southern boundary would be safeguarded and augmented. As well as the central open space (incorporating a play area) there would be a further community garden with planting and seating in the northwest corner of the site (originally planned to be a play area but amended in response to local concerns about the potential for anti-social behaviour).
12. There would be pedestrian access from Cock and Bell Lane and two pedestrian links through to the public footpath running just outside the western boundary of the site. The main access to the site would be from Hall Street between the Cock and Bell PH and Foundry House. This would be a shared surface with a demarcated pedestrian margin. Within the development there would be a total of 110 parking spaces, including 2 spaces displaced from Hall Street to form the necessary visibility splay.
13. The access road would be private, not adopted by the Highway Authority (HA). Thus, other than initial comments, the remit of the HA has been limited to assessment of the junction with the public highway at Hall Street. After various amendments, the HA has raised no objections in this regard. The FCNG and the Council however expressed concerns about various aspects of the proposed access both into and within the site.

Junction with Hall Street

14. There is considerable objection to the proposed alterations at the junction with Hall Street which includes re-alignment of a section of the pavement on Hall Street at the site access. At present, drivers of vehicles exiting from the access road have no sight of pedestrians about to cross the road until they are near or at the corners of the adjacent buildings. The proposal is for a minor realignment of a small section of footway, diverting it away from the front facades of the buildings. This would improve inter-visibility between drivers and pedestrians.
15. The scheme presented would have a small area of cobbles, surrounded by timber bollards connected by a chain, to channel pedestrians along the new route. It was claimed that this would be out of keeping with the character of Hall Street, but I saw that there is variety of surface treatments along the length of Hall Street at road junctions and delineating historic areas of private curtilage at the back of the footway. Indeed, in the vicinity of the appeal access, there are similar area of cobbles demarcated by posts or post and chains outside Trowmans, and outside the building on the northern side of the junction with Cock and Bell Lane. I therefore consider that, in this respect, the proposal would not be out of keeping with the character of Hall Street.
16. It was also argued that this realignment of the pavement and the design would cause difficulties for people with disabilities and that there has been insufficient consultation on this aspect. However, the junction would be more clearly

delineated than at present by the texture of materials, and the kerb build-out would, as explained above, mean better visibility for both pedestrians and drivers at this point. I appreciate the difficulties for mobility impaired, blind and partially sighted people and that efforts should be made to create an 'enabling' environment. Nonetheless, it seems to me that the proposed change would not make this part of Hall Street particularly hazardous, especially when account is taken of the assortment of potential obstacles at the side of the footway all along Hall Street such as plant tubs and troughs, shop signs, railings, tables and chairs. In any event, at the Inquiry the appellant made it clear that a condition requiring approval of amended details would be acceptable if permission were granted which could address matters such as materials, height of bollards etc..

17. Analysis of accident data shows no evidence that the accidents which have been recorded in the last 5 years along Hall Street have been as a result of the interaction of pedestrians and vehicles at access points. The most common cause is human error. There is no evidence that the area around the junction of the access and Hall Street is an accident black spot.
18. To achieve adequate visibility splays from the access along Hall Street, it is proposed to remove 2 on-street parking spaces on the southern side. This means that a visibility splay of 2.4m x 43m in each direction, as required by the Highway Authority, can be achieved. The Council's Highway witness maintained that the splay to the south should be 2.4m x 59m as advised in Manual for Streets (MfS) as the speed of traffic on Hall Street at weekends is in excess of 30mph. I note that the Design Manual for Roads and Bridges (DMRB) indicates that speeds in some situations, including at weekends, should not be used to assess such matters. Irrespective of this, during the Inquiry the appellant produced a further drawing which demonstrated that, in providing a visibility splay of 2.4m x 43m to the south, the slight curve in the road means that a splay of up to 2.4m x 70m is actually achieved.
19. There was discussion as to whether signs and tables on the grass verge in front of the Cock and Bell obstruct the sight line to the north. This is highway land, and so, if it were found to be a problem, the Highway Authority could require them to be removed. Furthermore, although visibility splays are measured along the near side of the road, in this case drivers wishing to turn right out of the access would be focussing on on-coming traffic on the other side of the road which, again because of the curve in the road, would be visible beyond the pub furniture.
20. Businesses in Hall Street object to the loss of 2 on-street parking spaces to create the visibility splay, but these would be replaced near the entrance into the development. I accept that it would not be immediately obvious that there were 2 public spaces in what would be a private road. However various photographs produced for the Inquiry and my own observations when I visited the area at various times (both before, during and after the Inquiry) suggest that at least one of these spaces is regularly used by the kitchen company in Foundry House to park a company van. At the Inquiry the appellants indicated that they would be willing to dedicate these 2 spaces for the use of the nearby businesses. As such, I do not consider that the re-location of 2 spaces would significantly affect the availability of parking in the area.

21. On a wider note, I do not consider that, given the length of the commercial area in Hall Street where, in general, parking is not restricted, the loss of 2 on-street parking spaces would have a material effect on the vitality and viability of the village centre or its ability to attract tourists.

Access from Hall Street into the Site

22. There was much debate about the safety of the shared surface access road. It would be a level surface with a pedestrian margin delineated by differences in the colour and texture of surfacing materials. As referred to above, this access road serves a number of commercial properties. Historically it was used by cars and HGVs gaining access to the caravan manufacturing business when it was active and when the Old Foundry was occupied and is used by lorries making deliveries to the pub and Trowmans. In addition there is a side entrance to the pub used by patrons walking from the car park at the rear and, from evidence given at the Inquiry, by patrons with mobility scooters. Contrary to various objections, the appellant has recently acquired the necessary rights and so has control over the access road to prevent it being blocked by parking and unloading taking place.
23. Although pedestrians, cars and lorries have used this access for years, in my view the development of the site for residential purposes means that the nature of vehicular and pedestrian activity would change significantly. When the manufacturing use was in operation, it can be expected that workers would, in general, have arrived and departed at beginning and end of the working day (by car or on foot in one or other direction), and possibly walked out into the town at lunchtime. A development of predominantly family housing is likely to mean more activity throughout the day and evening and more pedestrians, including children, mothers pushing prams, elderly people, dog walkers etc.
24. Pedestrian counts provided show the busiest time of activity to be around lunchtime, possibly because of people going to and from the pub. This coincides with some of the busiest times for vehicles. The appellant claims that the time spent in the narrow part of the access would be of short duration so that the actual time for potential for conflict between pedestrians and vehicles would be very short but, in my judgement, given the number of dwellings proposed, the number of additional pedestrians using this route throughout the day would be significantly increased and so the potential for conflict would be greater. I am mindful of the recent prior approval application which means that there is also the possibility of The Old Foundry being converted for residential use.
25. MfS indicates that shared surfaces encourage drivers to travel slowly and take more care, but the needs of the pedestrians sharing the space must be considered carefully. The stretch between Trowmans and the pub access is narrow with just about room for 2 cars to pass. In such an event one would have to cross into the pedestrian margin. A large vehicle, such as a refuse vehicle or delivery lorry, would take up most of the width of the roadway and impinge on the pedestrian margin. Drivers exiting from the development would have to wait near at a stop line by The Old Foundry building if a large vehicle were entering the site. Those drivers would have to be aware of the vehicle entering the access road as well as being aware of traffic coming from the pub and office car parks and people on the pedestrian margin and so may

not stop in time so that the access would be blocked. With more cars and pedestrians using this area hour by hour and not just at peak times, I consider that the potential for conflict would be increased. Along all this stretch of the access road vehicles are likely to have to impinge on the pedestrian margin if another vehicle is coming in the other direction. Although drivers would be travelling slowly, the more activity generated the more pedestrians are likely to feel intimidated and there would be few areas where they could feel safely out of the way.

26. There are a number of other access roads in Long Melford which are very narrow shared surfaces, some much narrower than in this case. However, in general, I saw that they do not serve the mix of uses which would be served in this case with cars and pedestrians coming from different directions. Moreover the presence of other such roads does not, in itself, serve to justify additional use of a substandard access, especially for family housing.

Access Road Within the Site

27. There would be 110 parking spaces (inclusive of 8 visitor spaces and 2 replacement spaces) within the development. In numerical terms, this would broadly accord with the standards set out in the Suffolk Advisory Parking Standards² (SAPS) which, for an urban location with poor off peak public transport sets a standard of a maximum of 2 spaces per dwelling. The FCNG argued that the standard for rural or suburban locations should be used and account taken of the fact that car ownership in the area is higher than average. However, given the fact that Long Melford is considered to be a sustainable location for development, that the site adjoins the main commercial area, the way that the spaces would be allocated throughout the development (with 3 spaces for some of the larger dwellings) and that a travel plan would be put in place, I agree that the appropriate SAPS standard has been used.
28. Nonetheless, the actual parking layout, with a number of properties having either tandem or triple spaces/tandem spaces in front of a garage, and a number of properties without parking space directly in front of the houses, in my experience means that a number of the spaces are impracticable for regular day to day use by the occupiers and their visitors and so are likely to lead to on-street parking. A plan submitted by the appellant shows that there are some areas within the development where on-street parking could take place and still allow for a large vehicle, such as a refuse vehicle, to be driven around the development. Even so, the tracking diagrams show that the vehicles would, in a number of places, have to swing over the pedestrian margin.
29. There would be an alternative footpath across the open space in the centre of the site, and around its margins, but this may well not be the most direct and convenient route for pedestrians to and from some of the dwellings, especially those on the eastern side. Furthermore, drivers would be likely to park as close to the properties as they could and this may not be in the areas identified as allowing for large vehicles to pass. Although the HA did not formally object to the internal layout of the site as it would be a private road, the view expressed in a letter to the Council on 24 May 2013 was that the site layout was of an inadequate standard. At the Inquiry the appellant claimed that a parking enforcement regime could be put in place to prevent on-street parking.

² Supplementary Planning Guidance: Suffolk Advisory Parking Standards (2002) (SAPS)

However this would be reliant on external contractors as the road would not be adopted, and would not, for example, take account of the possible needs of disabled people living at/visiting the site and parking for deliveries and contractors.

30. The Suffolk Design Guide³ accepts the use of shared surfaces in a cul-de-sac serving up to 25 houses or a loop which serves developments of 50 units. There was a difference of opinion as to whether the road was a loop or a cul-de-sac. Having only one way in and out, the Council maintained it was a cul-de-sac, but the appellant was of the view that traffic could take alternative routes around the internal layout and so it should be considered as a loop. This Design Guidance was based on Design Bulletin 32 which has since been superseded by MfS. Current design advice in MfS supports shared surfaces in short lengths or culs-de-sac or where traffic is below 100 vehicles per hour. However it seems to me that there are doubts about the safety of pedestrians using the shared surface on the internal access road unless it could be guaranteed that a parking control regime would be successfully operated for the lifetime of the development.

Conclusion

31. The reason for refusal stated that *'the proposed access and footways and the number of dwellings (resulting in overdevelopment) would be detrimental to pedestrian safety due to the narrow width of the access into the site from Hall Street and the lack of dedicated pedestrian footways and inadequate refuges for pedestrians'*. Although acceptable changes could be made to the junction with Hall Street, there are significant shortcomings and safety issues with the access way to the entrance of the site and questions of pedestrian safety within the site for the level of housing proposed. It is an existing access road, but the scale of the development proposed increases the potential for vehicle/pedestrian conflict. As such I find that the proposal would not provide safe and suitable access for all people as required by the Framework and would be detrimental to vehicular and pedestrian safety.
32. There is a presumption in favour of sustainable development embodied in the Framework and there are benefits of the scheme in using a brown field site in a sustainable location and the provision of an element of affordable housing. Nevertheless, I do not consider that these matters outweigh the issue of pedestrian safety. Moreover, the Council has demonstrated a 5 year supply of housing land as required by the Framework and this is not an allocated housing site so that there is no immediate imperative for housing development.
33. For the reasons given above I conclude that the appeal should be dismissed

Isobel McCretton

INSPECTOR

³ Suffolk Design Guide for Residential Area 1993 (revised 2000)

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Hugh Flanagan	of Counsel, instructed by Oliver Block, Solicitor, Babergh DC
He called:	
Clive Ashby	C A Traffic Solutions LLP
William Richards	Aspinalls Planning

FOR THE APPELLANT:

Peter Village	Of Queens Counsel, instructed by Nichola Parsons, Pegasus Planning
He called:	
James Hutchins	WSP Highways and Transport
Nichola Parsons	Pegasus Planning

FOR FLEETWOOD CARAVANS NEIGHBOURHOOD GROUP (FCNG):

Louise St John Howe	
She called:	
David Watts	Chair Fleetwood Caravans Neighbourhood Group
Chris Fielding	Specialist Access Consultant

INTERESTED PERSONS:

Cllr Richard Kemp	County Councillor
John Hoarder	Local Resident
Helen Spear	Local Resident
Gordon Forbes	Local Resident
Sean O'Brian	Local Resident
Camilla Rodwell	Local Resident

Documents Submitted at the Inquiry

Document 1	Statement of Common Ground
Document 2	Appellant's Opening Submissions
Document 3	Additional Documents for proof of Mr Hutchins
Document 4	Extract from Manual for Street 2
Document 5	Land Registry extract SK351636 showing transfer of land from Greene King plc to appellants
Document 6	Extract from the Suffolk Design Guide
Document 7	Photographs of 'pedestrian comfort areas'
Document 8	Note from Winkworth Sherwood re Unilateral Undertaking

- Document 9 Example of agreement with Parking Ticket Company and signage scheme at appellant's development in Trumpington Meadows, Cambridge
- Document 10 Letter from Birketts to Barratt Eastern Counties dated 24/1/14
- Document 11 Unilateral Undertaking dated 20/2/14
- Document 12 Joint Statement by Greene King and BDW Trading Ltd re access
- Document 13 Land Registry extract SK117526
- Document 14 Letter from Winkworth Sherwood to Babergh DC dated 19/2/14
- Document 15 Appellant's closing submissions
- Document 16 Council's opening statement
- Document 17 Council's closing submissions
- Document 18 Council's response to appellant's costs application
- Document 19 Statement from Gordon Forbes
- Document 20 Barratt Developments plc – Community policy
- Document 21 Correspondence between Barratt Developments and Mr Watts dated 29/11/13 and 17/12/13
- Document 22 Extracts from ONS Neighbourhood Statistics re car ownership for Long Melford, Aberbargoed, and Northallerton Broomfield 2007 & 2013
- Document 23 FCNG Fleetwood Site – Population for 51 houses Conservative Estimate

DRAWINGS:

- A1-34 Agreed Drawings: Site location plan, 6258-SS01A, 6258-PL01B, 6258-PL02B, 6258-PL03B, 6258-PL04B, 6258-PL05A, 6258-PL06B, 6258-PL07B, 6258-PL08C, 6258-PL09B, 6258-PL10B, 6258-PL11B, 6258-PH01, 6258-G01B, 6258-SL_01U, 6258-SK10G, 6258-SK11F, 6258-SK12E, 6258-SE01C, 6258-AF_01C, 6258-AS_01C, vWB_01B, 6258-SK22F, JBA-11/289-SK1H, JBA-11/289-02A, JBA-11/280-03E, 5774/003K, 5774/005D, 5774/013G, 5774/052, MMA1224/001/R0, IP11_594_03_SK010, IP11_594_03_SK011.
- B1 Site entrance proposed works (5774/055B) showing visibility splays onto Hall Street
- C1 Road setting out with large refuse vehicle tracking (5774/003N)
- D1 Pedestrian only routes to Hall Street