



Appeal Decision

Inquiry held on 11 and 12 February and 11 and 12 June 2014

Site visits made on 12 and 13 June 2014

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 15 July 2014

Appeal Ref: APP/J3530/A/13/2204639 Land at Old High Road, Yoxford, Suffolk

- 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 Hopkins Homes Ltd against the decision of Suffolk Coastal District Council.
 - The application Ref C/13/0024, dated 7 January 2013, was refused by notice dated 19 September 2013.
 - The development proposed is residential development of 26 dwellings, associated access and landscaping.
-

Decision

1. The appeal is dismissed.

Application for costs

2. At the Inquiry an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appellant submitted a completed Unilateral Undertaking; the Council confirmed that this overcomes their objection as set out in reason 5 of the decision notice.

Main Issues

4. The main issues in this appeal are as follows;
 - Consideration of a 5 years' supply of housing land and its effects
 - The principle of the proposed development outside the defined village
 - The effects of the proposal on the local historic parkland and landscape
 - The effects of the proposed design and layout
 - Whether the proposal would give rise to pressure to unacceptably remove trees or hedgerows
 - The effects of the adjacent cricket club on the living conditions of future residents of the proposal.

Reasons

Consideration of a 5 years' supply of housing land and its effects

5. At the opening of the Inquiry, both parties agreed that the Council was unable to demonstrate a 5 years' supply of housing land. When the Inquiry resumed in June, the Council supplied additional information relating to housing delivery. This was in the form of raw data and no additional evidence was given. The appellants were able to undertake a brief analysis of the data and were critical of whether it demonstrates a 5 years' supply of housing sites, as claimed by the Council. The appellants state that: a previous backlog has not been included; no buffer has been included; there is no justification for using the 'Liverpool' method; some of the sites will not deliver housing in the numbers and timeframe expected by the Council and the appellants' consultants have expert knowledge as they have acted for clients on these schemes. In view of these matters, I agree with the appellants that it seems very unlikely that a 5 years supply of housing land can now be demonstrated. It is notable that the point appeared not to be pursued in the Council's closing submissions.
6. Paragraph 49 of the National Planning Policy Framework (the Framework) makes it clear that, relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of housing sites. Paragraph 14 of the Framework states that the implications are that, where relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In taking account of this, I have had regard to the judgement of *William Davis v Secretary of State* (2013) wherein it was held that paragraph 14 of the Framework only applies to development which has been found to be sustainable.
7. There was much debate about whether the recent adoption of the 'Suffolk Coastal District Local Plan' (LP) meant that its policies are automatically up-to-date. The examining Inspector found the LP sound but built in the requirement for an early review in relation to housing delivery. However, it seems to me that he accepted in paragraph 50 of his report that "relevant policies for the supply of housing should not be considered up-to-date until the Council has demonstrated a 5-year supply of deliverable housing sites". He went on to identify benefits associated with finding the plan sound, as opposed to a suspension of the examination and subsequent withdrawal of the plan and identified that applications for housing development would be considered in the context of an up to date suite of development management policies and subject to the requirement to be sustainable development. In this respect I see that Inspector as identifying that there would be advantages of considering development in the light of other up-to date policies whilst accepting that, until a review was undertaken, relevant policies for the supply of housing may be considered not to be up-to-date.
8. In relation to this matter, there was disagreement between the main parties about which policies may be considered to be "relevant policies for the supply of housing". I consider that Policy SP2 of the LP, which sets out housing provision for the District is one such relevant policy and can not be considered as up-to-date. Policy SP15 relates to landscape and townscape and not specifically to the supply of housing and I do not consider it to be a relevant policy in the terms of this discussion and so is up-to-date. Policy SP19 sets the

settlement hierarchy and shows a percentage of the total proposed housing growth which should go to the broad categories of settlements. This policy has a broad scope and does not suggest figures or percentages for individual settlements. In this context, I do not see this policy as not up-to-date.

9. Policy SP27 of the LP relates specifically to Key and Local Service Centres and seeks to, among other things: reinforce their individual character; permit housing within defined physical limits unless there is a proven local support for development appropriate to the particular community. I do not consider this policy to be a relevant policy for the supply of housing and I consider it to be up-to-date.
10. Policies AP4 and AP13 are saved policies within the old Local Plan. Policy AP4 states that the Council will encourage the preservation and/or enhancement of parks and gardens of historic and landscape interest and their surroundings; adding that planning permission will not be granted if development would have a materially adverse impact on character, features or immediate setting. The appellant suggests that this policy does not allow for a balance of harm against benefits and so is not consistent with the Framework. Policy AP13 relates to Special Landscape Areas (SLA) and states that no development will be allowed which would be of material detriment to or detract from the special landscape quality. The appeal site falls within a defined SLA and the Parks and Gardens of Historic and Landscape interest are designated as SLAs. With respect to the advice in paragraph 215 of the Framework, I find that there is a degree of conflict between Policy AP4 and the Framework due to the absence of a balancing judgement in Policy AP4. However, its broad aim is consistent with the aims of the Framework and Planning Practice Guidance (PPG); in this respect I find that and these matters reduces the weight that I attach to Policy AP4, although I shall attach some weight to it. The appellants are similarly critical of Policy AP13. However, I note that the PPG and the Framework recognise the intrinsic quality of the countryside and promote policies for the conservation and enhancement of the natural environment and to this extent, Policy AP13 is consistent with those aims.
11. I am aware that my conclusions in relation to the question of whether certain policies can be considered as up-to-date contradict the conclusions of a fellow Inspector when considering a proposal within the District. However, I am not aware of the evidence which was before my colleague and my conclusions are based on a thorough appraisal of oral evidence subject to cross examination and supported by submissions.

The principle of the proposed development outside the defined village

12. Policy SP27 of the LP relates to Key and Local Service Centres (Yoxford is a Key Service Centre) and states, amongst other things, that housing development will be permitted within the defined physical limits or where there is proven local support in the form of small allocations of a scale appropriate to the size, location and characteristics of the particular community; the appellants do not seek to rely on the latter section of this part of the policy.
13. The appeal site is outside the physical limits boundary as defined in the very recently adopted Local Plan. The supporting text to Policy SP27 states that new housing development in such settlements would require careful consideration given environmental issues and the potential impact on their character. The requirement directing development to within the physical limits

of the settlement is in accordance with one of the core principles of the Framework, recognising the intrinsic character and beauty of the countryside. I am aware that the appeal site was identified within the Council's SHLAA, along with a number of other sites within and around the settlement; however, the Council state that this was done in error and was done as a result of the failure to take account of its designation within the Historic Park.

14. I consider that the appeal site occupies an important position adjacent to the settlement, where Old High Road marks the edge of the village and the start of the open countryside. The proposed development would be unacceptable in principle, contrary to the provisions of Policies SP27 and SP29 and contrary to one of the core principles of the Framework.

The effects of the proposal on the local historic parkland and landscape

15. The appeal site forms part of an area defined as Historic Parkland by the Council in their Supplementary Planning Guidance 6 'Historic Parks and Gardens' (SPG) dated 1995. The house at Grove Park is said to date from the late 16th Century and rebuilt in the 1770s. The SPG identifies that the southern section (including the appeal site) is now in arable use but that some parkland trees remain. It adds that, notwithstanding the presence of the cricket ground (and the then planned bowls green), "the essential qualities of the Park remain". The SPG notes that the boundaries of the parklands have been drawn taking account of: that area currently forming the visual extent of parkland, and; any additional area which historically formed part of the extent of parkland and which continues to display remnants of that former park.
16. It was clearly acknowledged when the SPG was published that the area containing the appeal site was in arable use. This was obviously balanced by other matters, including the existence of "parkland trees" and the area included within the designation. I have no hesitation on acknowledging that arable use inflicts a degree of erosion to the parkland qualities of the area; although it was notable at my site visit that the appeal site has now been separated from the larger area by a low post fence and appears to be uncultivated. However, one of the key underlying qualities of parkland, that is openness and freedom from built development remains. I also accept that the planting that exists to the south of the house has some separating effect, but the existence of the trees, the historic association with the house and the entrance at the south east, which has a perimeter wall of very similar design to the north east entrance are matters which qualify as "remnants of that former park".
17. The historic parklands are also identified as Special Landscape Areas (SLAs) and the site falls within the River Yox Valley SLA. The settlement of Yoxford sits in a position virtually surrounded by 3 Historic Parklands. This provides a very attractive setting for the village.
18. The appellant has submitted a Landscape and Visual Impact Assessment (LVIA) in support of the proposals. In relation to the visual effects, whilst I generally accept the sensitivity of the various receptors as set out by the appellant, I consider that users of the footpath to the south would be a medium to high sensitivity, not low. In relation to the magnitude of visual effects I do not agree that when viewed by the medium or high sensitivity receptors (ie people on the adjacent footpaths, residents opposite, users of the cricket ground, people walking on Old High Road) the proposal would be perceived as low as the effects suggested by the appellants. In my judgement, the replacement of

part of the open countryside with a suburban form of housing development would be one which would be seen as significantly negative by those people. It would be seen as development beyond the logical boundary formed by the road and would be easily perceived above and through gaps in the hedge on Old High Road. From the footpaths to the south and west, it would be seen as an intrusion into the countryside, and whilst boundary planting may eventually offer some softening to its visual impact, I consider that it would remain a negative visual feature.

19. In relation to the landscape effects, the appellant generally sees these as negligible or low negative, particularly in the early years, ranging to negligible or low positive at year 15. In relation to trees and hedgerows, the appellant states that the only change will be the loss of part of the hedge to Old High Road; I see this as more severe than the 'negligible' effect predicted. In addition, the trees and hedges form part of a wider rural picture with the trees seen as free-standing specimens within that setting. I consider that, even if they are retained, their positive impact on the landscape would be severely reduced by the close imposition of the housing estate. This would also set the context for any new planting which would be seen as domestic planting within a suburban setting and would not compensate for the negative effects that I envisage.
20. In relation to the built character and layout of Yoxford and its setting, Old High Road forms a strong and definite boundary to the built development of the village here. I do not agree that the proposal forms an appropriate development site in this respect, but would be seen as an ad-hoc expansion across what would otherwise be seen as the village/countryside boundary and the development site would not be contained to the west by any existing logical boundary.
21. In respect of these matters, the historic parkland forms a non-designated heritage asset, as defined in the Framework and I conclude that the proposal would have an unacceptable effect on the significance of this asset. In relation to local policies, I find that the proposal would be in conflict with the aims of Policies AP4 and AP13 of the old Local Plan and Policies SP1, SP1A and SP15 of the LP.

The effects of the proposed design and layout

22. The Council are critical of the proposed form of the scheme in relation to its appearance and its layout, the latter due to it being "inward looking" rather than addressing the existing road. Under cross-examination the Council accepted that the architectural styles and materials are characteristic of other buildings within Yoxford, including within its historic core. I have given careful consideration to the appearance of the proposed dwellings and was able to view other buildings within Yoxford. In my consideration, there is nothing about the proposal that would result in them being at odds with the design of other buildings within the area.
23. With respect to the layout, the appellant points out that this has resulted from the desire to retain as much of the frontage hedge as possible; if an alternative layout sought to have houses facing Old High Road, this would result in individual accesses and more hedge removal. Whilst I agree that the proposal does fail to address the existing road and this would have the effect of it appearing as a separate entity to the remainder of Yoxford, this is balanced by

the advantage of retaining a greater degree of the hedge. Therefore, if development of this site were to be found to be acceptable in principle, this matter in itself would not have been found to be unacceptable.

Whether the proposal would give rise to pressure to unacceptably remove trees or hedgerows

24. The existing hedge along the boundary of the site with Old High Road is a significant feature within the local landscape and marks the boundary of the historic parkland. It also has the effect of indicating the end of the built form of Yoxford and the start of open countryside. Although it is a significant feature, views are available of the open countryside beyond.
25. Although the majority of the hedge would remain intact a significant section would need to be removed in order to gain access and to retain the required visibility splays. At this point, this would mean that users of Old High Road would be presented with views into the estate, of houses, the road, its footpaths and all other elements of its suburban character. I do not consider that this would be tempered to any significant degree by the possibility of a view through the site to a retained tree and possibly countryside beyond. I find that this would be a damaging aspect of the proposal which would have a detrimental effect on the character of the area by the transformation of this rural aspect, to one of a suburban character, contrary to the aims of Policies SP15 and DM21 of the LP.
26. In relation to trees in and around the site, the Council accepts that there would be no unacceptable tree removal as a direct result of the development; however, they consider that there will be pressure to remove trees from the future residents of the proposed houses.
27. The appellant has submitted a 'Shade Analysis' in relation to the effects of the trees on the proposed dwellings. This sets out that the dwellings have all been sited such that their footprints are significantly outside the crown spread of any trees; it adds that with the exception of plot 9 all houses would be outside the root protection areas and plot 9 only infringes marginally. In this respect, I do not foresee an unacceptable impact on that tree by the house on plot 9 as the remainder of its root protection area remains undeveloped and an area of open space is proposed around it.
28. During the Inquiry the Council accepted that the possibility of damage to people or property arising from any of the trees may well be irrational but that fear would be real. In my view, if the Council felt that the trees in question were worthy of protection, they could do so with a Tree Preservation Order and any irrational fears could be resisted as just that. In this respect, I do not consider that there is a justified fear in relation to tree loss or works to them.

The effects of the adjacent cricket club on the living conditions of future residents of the proposal

29. There is evidence that balls from the adjacent cricket club enter the appeal site. The proposal indicates 2 houses close to the common boundary, with their flank elevations closest to the boundary. It seems to have been accepted by the appellants that there is an issue to be addressed and they have proposed the erection of fencing along part of that boundary, which would help to shield the front and side of plots 5 and 6; the remainder of the rear of plot 6

would be protected by the substantial canopy of a tree within the cricket club grounds.

30. I am satisfied that fencing of some nature along that part of the boundary indicated is necessary and would reduce the risk posed by cricket balls to an acceptable level. There would need to be consideration given to the design and height of the fence and any associated planting. Taking account of the relatively short section of the boundary concerned and the possibility of some planting to soften its visual effects, I am satisfied that such fencing could be erected without an unacceptable effect on the amenity of neighbours or the character of the area (assuming for the moment that the appeal scheme was acceptable in all other respects and in that context). Therefore, if planning permission were to have been granted, this matter could have been dealt with by means of a suitable condition.

The planning balance

31. I have taken account of the fact that the proposal would bring about additional homes, including some affordable, within a District where the supply of homes is a concern. I also take account of the fact that Yoxford is a Key Service Centre where, in principle, a degree of new development is expected and encouraged and the appeal site is close to its services and the local footpath network. I also have no reason to doubt the quality of the appellant company as a developer and, in this respect I viewed other development undertaken at Saxmundham and Snape. I have also taken into account the submitted Undertaking in reaching my conclusions.
32. However, I have found significant conflict with policies in the recently adopted Local Plan. I have also found conflict with some saved policies of the old Local Plan and I have sought to balance these negative aspects of the proposal against its benefits. In doing so, I consider that the unacceptable effects of the development are not outweighed by any benefits and means that it cannot be considered as a sustainable form of development, taking account of its 3 dimensions as set out at paragraph 7 of the Framework . Therefore, the proposal conflicts with the aims of the Framework.

Conclusion

33. For the reasons set out above, the appeal is dismissed.

S T Wood

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

J Clay	Of Counsel
He called	
P Dobson	Team Leader
H Hanslip	Principal Planning Officer
N Newton	Arboriculture and Landscape Manager

FOR THE APPELLANT:

T Ivory	Solicitor, Howes Percival LLP
He called	
J Burgess	Beacon Planning
B J Blake	JBA Consultancy Services Ltd
P Clarke	Bidwells

INTERESTED PERSONS:

S Beaumont
T Williams
D Holland
J Walford
B Slater
Sir Paul Newall

DOCUMENTS

Appeal decision APP/A3010/A/05/1183286
Appeal decision APP/A3010/A/06/2022191
Minutes of Council meeting 5/7 2013
Report submitted to Council meeting 5/7/2013
Photograph of original gate
Court of Appeal judgement, City and District of St Albans and Hunston Properties, SoS CLG
High Court judgement, Gallagher Homes, Lioncourt Homes and Solihull Metropolitan Borough Council
High Court judgement, William Davies Ltd, Jelson Ltd and SoS CLG, North West Leicestershire District Council
SoS decision APP/B3410/A/13/2193657
Appeal decision APP/A0665/A/13/2193956
SoS decision APP/B2002/A/13/2196572
Drawing 12/169-SK01 RevB
STRI report
Yoxford Conservation Area Appraisal
Appeal decision APP/J3530/A/13/2207355
Bundle of Council Committee reports
Photo-montages
Appeal decision APP/J3530/A/14/2210938
Appeal decision APP/J3530/14/2213562
Bundle of 3 aerial photographs

Current aerial photograph and one from 1945
List of agreed conditions
Extracts from the national Planning Practice Guidance
Updated housing figures from the Council and spreadsheets
Appellants' comments on Council's updated housing figures
Brochure relating to Saxmundham development
Brochure relating to Snape development

Richborough Estates