



Appeal Decision

Virtual Hearing held on 29 November 2022

Site visit made on 22 November 2022

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th December 2022

Appeal Ref: APP/W3520/W/22/3305372

Land corner of Ashfield Road and Grove Lane, Elmswell, Bury St Edmunds, Suffolk IP30 9HJ

- 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 Hartog Hutton Limited against the decision of Mid Suffolk District Council.
 - The application Ref DC/21/06379, dated 23 November 2021, was refused by notice dated 3 August 2022.
 - The development proposed is the erection of 19 dwellings and the construction of vehicular accesses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council refused the planning application on the grounds of highway safety, in relation to the use of new vehicular accesses, and flooding. It now no longer wishes to defend these reasons for refusal following scheme revisions and information, which show vehicular access splays in accordance with highway policy, and the site no longer being at an unacceptable risk of surface water flooding. Both the Highway Authority (HA) and Local Lead Flood Authority no longer raise objections on these matters. On this basis, there are no substantive reasons to object to the appeal proposal on these highway and flooding matters.
3. Nevertheless, the Council and HA object on highway grounds relating to pedestrian safety on Ashfield Road. A revised Unilateral Undertaking (UU) dated 9 December 2022 relates to the provision of on-site affordable housing (AH) and to contributions to off-site AH (in lieu of part of a residential unit), Early Years and Primary School education, Secondary School transport, and the proposed Woolpit-Elmswell pedestrian/cycle link. Both such matters will be considered further within the decision.

Main Issues

4. The main issues are (a) whether the development would be in an appropriate location, having regard to access to services, facilities and employment by sustainable transport means, (b) the character and appearance of the area, (c) the setting of Grove Farmhouse, a Grade II listed building, and (d) the highway

safety of pedestrians, cyclists and road users along Ashfield Road and Grove Lane.

Reasons

Location of the development

5. Ashfield Road is a main road leading out of the village of Elmswell and the site lies at the corner of this road and Grove Lane. The undeveloped site is located outside the settlement boundary of the village and is in designated countryside under the settlement hierarchy of the Mid Suffolk Core Strategy 2008 (CS).
6. CS Policies CS 1 and CS 2 restrict development in the countryside and outside of the settlement boundary to defined categories, none of which are applicable to the development. Policy H7 of the Mid Suffolk Local Plan 1998 (LP) states that outside settlement boundaries there will be strict control over new housing which should normally form part of existing settlements. The proposal would conflict with these policies.
7. Elmswell village is designated as a key service centre under CS Policy CS1 with a range of local services and facilities, including shops, public houses, primary school and preschool/nursery. Along with an industrial estate, such facilities also provide employment. The village is one of four within the district to benefit from a railway station which allows residents to travel to larger towns with a greater range of facilities. The station is located about 1200 metres(m) south of the appeal site. The local bus services stop is similarly within the centre of the village and services are restricted to twice a day during school terms Monday to Friday.
8. Policy FC1.1 of the Mid Suffolk Core Strategy Focused Review 2012 (CSFR) sets out Mid Suffolk's approach to delivering sustainable development. Proposals are required to demonstrate how they meet the objectives and policies of the CS which include locating development to areas with good access to jobs and services. Paragraph 105 of the National Planning Policy Framework (the Framework) requires that significant development should be focussed on locations which are, or can be made sustainable, through limiting the need to travel and offering genuine choice of transport modes.
9. The development would be within an area of housing and would provide cycling facilities. Future residents could cycle into the village along Ashfield Road. There would be footways within the development to encourage walking and there is a surfaced walkway located just over 320 m from the appeal site along Ashfield Road which leads into the village. Between this walkway and the site, there is an unmade track within an intervening highway grass verge which is used by local residents. There is also a public right of way (PROW) through the adjoining playing field into the village.
10. However, the roadside track is not fit for all year round use, being narrow and unsuitable for buggies/prams/wheelchairs or for two people to pass along most of its length. There is also a lack of public street lighting on this stretch of Ashfield Road. The attractiveness of the PROW is limited due to its non-metalled nature and the indirectness of its route into the village. Furthermore, many facilities and services would only just be within a reasonable walking time of 15 minutes. Opportunities to access sustainable transport options will vary from urban to rural areas but the walking options would be unlikely to be used

on a frequent basis throughout the year, especially during winter and inclement weather. Cycling is an option but as a mode of transport, it is not as practical and attractive as walking. Overall, the poor footway infrastructure would be likely to encourage residents to use the private motor vehicle for convenience and safety. The proposal incorporates no measures to improve upon the development's connectivity to the village.

11. Under the settlement strategy, CS and CSFR policies direct development to locations with good access to facilities, services and employment. Housing on this site would not be functionally well-related or connected to Elmswell in order to make use of sustainable transport options. Accordingly, there would be conflict with Policies CS 1 and CS 2 of the CS, Policy H7 of the LP and Policies FC1 and FC1.1 of the CSFR. Similarly, it would also conflict with paragraph 105 of the Framework.

Character and appearance

12. The appeal site comprises uncultivated grassland and is part of Buttonhaugh Green. The green dates back to at least the 18th century, although much of which has been developed by housing. The site is surrounded by residential development on three sides, including across the two roads bordering the site. The remaining boundary adjoins a playing field, with a small building and limited sports floodlighting.
13. The site is peripheral to the main village centre which is located further south along Ashfield Road. It is no longer spatially separated from ribbon development on Ashfield Road due to new housing development either side of Oak Lane. However, the housing within this part of Ashfield Road has a distinct countryside context given adjacent paddocks, fields and/or pasture with hedgerows and trees dominating. Indeed, not far beyond the junction of Ashfield Road and Grove Lane, there is open countryside.
14. Within this context, the appeal site is open, undeveloped and extensive creating a prominent green gap within the housing area and connects with and provides views into the countryside. The adjacent playing field has a partially manicured quality with its mown grass, flood lighting and sports building. Nevertheless, it has a similarly open and verdant nature, with boundary hedgerows and trees, and reinforces the semi rural appearance and character of this part of the village.
15. The detailed architecture of the proposed houses would replicate the local Suffolk vernacular and would be attractive aesthetically. There would be a green space and a pond at the corner of the Ashfield Road and Grove Lane, and landscaping in the form of hedges and trees within the site. Many of the residual plots would be equal or greater in size to those surrounding the development. Given this, there would be scope for enhanced landscaping, especially along the boundary with the playing field and wider countryside beyond.
16. However, the site contributes positively to the semi rural character and appearance of the area and built development would have a significant urbanising adverse effect due to the number of dwellings and extent of hard surfacing. It would largely remove the contribution that this site makes to the local distinctiveness of this part of the village. In isolation, the detailed architecture of the dwellings and landscaping would be attractive, but these

positive aspects of the development would not address the loss of this green space and its contribution to the identity of the area.

17. As such, there would be harm to the character and appearance of the area and conflict with Policy CS 5 of the CS and Policy GP1 of the LP, which collectively and amongst other matters, require the maintenance or enhancement of the character and appearance of their surroundings, and that development should be of a high quality design that respects local distinctiveness.

Setting of the listed Grove Farmhouse

18. The Grade II listed Grove Farmhouse dates to mid 16th century with some later remodelling in early 18th century. The listed building description (List entry 1032470) indicates timber-framed construction, with its north side encased in 19th century gault brick, now painted and plastered on other sides, and with a concrete tiled 19th century roof. It is set in a modest sized plot and surrounded by open countryside, including farmland, and its status as a farmhouse would indicate connection to farmed surroundings. The age, manner of construction and architectural detailing, and its role as a farmhouse would be of significance and special interest.
19. The medieval Buttonhaugh Green, as shown on Hodskinsons Map of 1783, covers the appeal site and would have been used for farming activities, and is sited close to the listed building. County Historic Environment Records (EDL061) describes it as "site of a former green, variously named 'Pasturam de Buttehaugh' 1156-80, Botten haugh 1286, Botton Haugh Green 1783, enclosed 1814. There is no definitive evidence before me that the site was used in connection with the farmhouse but given its proximity, age and function, it is highly likely to have been.
20. There is limited intervisibility between the appeal site and the farmhouse due to vegetation. However, setting has a broad meaning that goes beyond visual aspects and relates to how the asset is experienced. In this case, the surrounding countryside, farmland, open areas and hedgerows, contributes to the understanding of the listed building as a historic farmhouse. In any case, visibility can change over time and there is no guarantee that vegetation would remain in perpetuity, as there can be any number of reasons for loss, such as weather, disease, or accidental damage.
21. The former rural setting to the listed building will have changed with the recent housing developments but this does not remove the necessity to assess setting, even if it has been reduced. It is not clear how setting was considered when these developments were permitted but inevitably, these other schemes will differ in their nature, for instance number of dwellings, benefits, and circumstances, which will lead to different heritage and planning balance outcomes.
22. Furthermore, every proposal has to be considered on its individual planning merits and for the reasons indicated, the development of the site with 19 dwellings, associated hard surfacing and vehicle parking, would result in an adverse urbanising effect and this would harm the appreciation of the listed building as a farmhouse. In isolation, this adverse effect on setting would be small but nevertheless, it would conflict with Policy CS 5 of the CS and Policy HB1 of the LP. It would conflict with s66(1) of the Planning (Listed Building and Conservations Areas) Act 1990.

Highway safety

23. Ashfield Road has been classified as a rural road with a 30 mph speed limit and carries a significant amount of traffic. In this part of the village, it does not have continuous footways or street lighting for pedestrians. There is an existing unmade path in the verge linking up to the nearest proper footway but this is unsuitable for pedestrian use for the reasons indicated.
24. LP Policy T10 states that regard will be had to whether the needs of pedestrians and cyclists have been met. Paragraph 111 of the Framework states that development should only be permitted or refused on highway grounds if there would be an unacceptable impact on highway safety.
25. However, the poor footpath infrastructure and 15 minute walking distance to many facilities and services would not encourage significant numbers of future residents to walk into the village and be at risk from collision with a motor vehicle. There have also been no official personal recorded accidents in the last 20 years along this part of Ashfield Road. For all these reasons, there would be no unacceptable impact on highway safety and the proposal complies with Policy T10 of the LP and national policy within the Framework.

Planning Obligation

26. CS Policy CS 6 states new development will be expected to provide or support the delivery of appropriate and accessible infrastructure to meet the justifiable needs of new development. It states that consideration will be given to the timing of infrastructure provision and development may need to be phased to ensure the proper provision of infrastructure. CSFR Policy FC1.1 requires the delivery of integrated sustainable development through a variety of means, including obligations.
27. For AH, the obligation details the provision of 6 units on the site and an offsite contribution would be paid in lieu of part of a unit. The on-site provision would be a 1 and 2 bedroom dwellings for rent and shared ownership. The Mid Suffolk Housing Needs Survey 2003 and 2005 update identified significant needs and the proposal would be in accordance with the 35% affordable housing ratio set out in Altered Policy H4 of the LP. Policy CS 9 requires new housing development to provide a mix of house types, sizes and affordability to cater for different accommodation needs. The provision of AH would be in accordance with local and national policy.
29. Under obligations, the Early Years and Primary School contributions are based on likely pupils generated by the housing development based on SCC forecasts and strategy, and costings of the Department for Education (DfE). The Early Years contribution would be put towards provision as part of a new primary school in nearby Woolpit or as a standalone facility. The Primary School contribution would be paid towards the land and build costs of the new primary school that has been granted planning permission. The Secondary School Transport contribution would be paid towards transport provision to the secondary school at Thurston Community College in accordance with SCC forecasts and strategy, and costings under the 2022 update on developer contributions. There is currently a school bus service operating from the village.

30. The obligation would ensure the payment of a sustainable transport contribution towards the cost of a Elmswell/Woolpit pedestrian/cycle link in accordance with SCC costings. There are many shared facilities between the villages of Elmswell and Woolpit including the proposed Woolpit Primary School, and the link is in accordance with the SCC Local Cycling and Walking Infrastructure Plan and the Local Cycling and Walking Infrastructure Plan, with schemes for Mid Suffolk.
31. The obligations set out in the UU are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. Therefore, they would comply with the statutory tests of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

Other matters

32. The Council can demonstrate an adequate 5 year housing land supply (5YHLS), measured at 9.54 years (Annual Monitoring Report February 2022). Having an adequate 5YHLS does not indicate a maximum level of housing has been reached for the district and therefore, 19 dwellings would beneficially boost housing supply in accordance with both local and national policy.
33. The Ipswich Housing Market Area, Strategic Housing Market Assessment (SHMA) document, updated in 2019, confirms a continuing need for housing across all tenures and a growing need for affordable housing. Under the SHMA, there is a need for 127 new affordable homes per annum in Mid Suffolk. The Council's housing register has 37 applicants registered for affordable housing with a local connection to Elmswell, with more than 600 on the Housing Register with a connection to Mid Suffolk (December 2021). The provision of 6 AH would help to meet this urgent need. Taking into account the districts affordable housing needs, the overall housing benefits of the proposal would be moderate.
34. Given the unkept nature of grassland and the extent of development, it has not been demonstrated that additional landscaping would provide a biodiversity gain. The development's benefit to the vitality of Elmswell is not in doubt but this would be limited given that residents would most likely use private motor vehicle with options to drive to other large settlements.
35. There have been recent planning developments¹ drawn to my attention, including 5 dwellings at Buttonhaugh Green, 2 dwellings behind Woodstock and Orchard House, and 6 dwellings south of Field View, and a major housing development south of Oak Lane. No doubt, such decisions would have needed to consider similar issues as before me but these applications would differ in their nature, notably their scale, site area and context, and would involve different decision balances and other considerations.
36. Both the Field View 6 dwelling and Oak Lane major housing schemes are located closer to the village centre with better pedestrian footway access. The Oak Lane scheme would have considered the greater benefit of boost to housing supply and associated weight in the decision balance. The developments around the appeal site would not involve the number of dwellings proposed in this appeal nor are they similar in site size. Therefore,

¹ Local Authority references, DC/18/00843, DC/19/04368. DC/18/02826, 1162/16 and DC/18/0464.

there are marked differences between these permissions and the appeal proposal. Cumulatively, these permitted dwellings and those south of Field View would be greater in number. However, the incremental effects of these developments demonstrate to me the importance and value of the appeal site to the semi-rural qualities of the area.

37. Under the emerging Joint Local Plan (JLP), the proposed settlement boundary envelops the housing that surrounds the appeal site. However, the Examiner has issued a letter to the Council advising of additional work in respect of the spatial strategy. As a result, the JLP is to be split into two parts, with Part 2 containing the spatial strategy being brought forward at a later date. As such, the JLP is not at stage where any significant weight can be given to it.
38. Buttonhaugh Green has no formal planning designation or common land registration. Whilst it informs the assessment on the setting of Grove Farmhouse, it has been significantly eroded by housing development and refusal of the proposal on its effect on it cannot therefore be sustained.

Heritage and Planning Balance

39. The harm to the setting of the listed Grove Farmhouse, its significance and special interest would be small. Nevertheless, irrespective of the level of harm, it would equate to less than substantial in terms of the Framework. In accordance with paragraph 202 of the Framework, the harm should be weighed against the public benefits of the proposed development.
40. The boost to housing supply and affordable housing provision would be of modest weight. The education and transport contributions are proportionately justified in relation to the development but there are wider knock-on benefits in terms of preserving the viability of such infrastructure and in the case of the link, being available for wider use. Along with the limited village vitality benefits, these would represent economic and social benefits attracting small weight.
41. However, there would be harm to the setting of a listed building in conflict with s66(1) of the Act. Irrespective of whether the less than substantial harm is at the lower end of the spectrum, considerable harm and weight must be attached to it. Consequently, the overall weight of identified housing and economic benefits, which accrue from the proposal, are not sufficient to outweigh less than substantial harm identified. Conflict, therefore, arises with the historic environment protection policies of the Framework.
42. In the planning balance, planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. There would be conflict with settlement spatial strategy, poor sustainable transport acceptability to facilities, services and employment, harm to character and appearance, and the setting of a listed building in conflict with relevant policies of the CS, LP and CSFR.
43. CS Policies CS 1 and CS 2, and LP Policy H7 are unduly restrictive in their approach to the acceptability of development compared to the more nuanced and balanced approach within the Framework. CSFR Policy FC1 also does not precisely reflect the latest wording of the Framework in respect of the presumption in favour of sustainable development. Both CS Policy CS 5 and LP

Policy HB1 do not set out a public benefit heritage balance as set out in the Framework.

44. However, the CS and LP policies still direct development to sustainable settlements where there are facilities, services and employment accessible by sustainable transport. This is in accordance with Framework policy that indicates significant development should be focussed on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. The Council also has a healthy land supply position. CSFR Policy FC1 still retains an overall positive approach to considering development in the latest Framework. Whilst CS Policy CS 5 and LP Policy HB1 do not refer to the heritage balance, they place great weight on the conservation of heritage assets and their irreplaceable resource. Therefore, despite Framework inconsistencies, the weight to be attached to the proposal's policy conflicts remains significant.
45. Additionally, the proposal also conflicts with CS Policy CS 5 in respect of harm to the character and appearance of the area, Policy FC1.1 of the CSFR in respect of spatial strategy and sustainable transport and Policy GP1 of LP in respect of character and appearance. In the absence of any inconsistencies with the Framework on these issues, these policy conflicts attract full weight.
46. In summary, the proposal would provide housing, including affordable housing, in accordance with CS, LP and CSFR. However, the cumulative harm to the districts settlement strategy, based on sustainable transport principles, character and appearance, and setting of a listed building would be great. The identified policy conflicts would be overriding and there would be conflict with the development plan taken as a whole.
47. Numerous appeal decisions have been submitted to demonstrate the approach to be taken with the tilted test in paragraph 11. d) ii. and how to assess the most important policies for determining the application as being out-of-date. However, the presumption in favour of sustainable development does not apply because the application of policies that protect areas or assets of particular importance, in this case a heritage asset, provides a clear reason for refusing the development proposed.
48. There are no material considerations of sufficient weight or importance that determine that the decision should be taken other than in accordance with the development plan and therefore, planning permission should be refused.

Conclusion

49. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathon Parsons

Planning Inspector

APPEARANCES

FOR THE APPELLANT

P Cobbold MRTPI	Phil Cobbold Planning Ltd
P Scarlett RIBA	Brown & Scarlett Associates
G Wells	Hartog Hutton Limited
M Payne	Hartog Hutton Limited

FOR THE LOCAL PLANNING AUTHORITY

S Stroud	Mid Suffolk District Council
J Whyard	Mid Suffolk District Council
N McManus	Suffolk County Council
B Chester	Suffolk County Council
P Freer	Suffolk County Council
L Harrad	Suffolk County Council

THIRD PARTY

P DOW	Elmswell Parish Council
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DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

1. Suffolk County Council email response on electronic charging points condition, dated 2 December 2022.
2. Mid Suffolk District Council email response, enclosing Hodkinson's maps and bus service information and attached timetable, dated 5 December 2022.
3. Phil Cobbold Planning Ltd email response, enclosing bus service information and timetable, dated 5 December 2022.
4. Unilateral Undertaking dated 9 December 2022, and suggested public open space condition, email response dated 9 December 2022.
5. Phil Cobbold Planning Ltd email response to Hodkinson's map, dated 12 December 2022.
6. Mid Suffolk District Council email response to UU, with comments on omission of provision and maintenance of public open space and inadequacy of alternative planning condition, dated 9 December 2022.
7. Phil Cobbold Planning Ltd email response on Council's comments on UU and planning condition, dated 9 December 2022.