



Appeal Decision

Hearing held on 27 June 2024

Site visit made on 28 June 2024

by **S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 August 2024

Appeal Ref: APP/F3545/W/24/3341665

Land Adjacent to Halfway House, Burwell, Suffolk, CB8 7LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Tiwana Construction Ltd against the decision of West Suffolk Council.
 - The application Ref is DC/23/0145/OUT.
 - The development proposed is outline application for a development of 10 self-build affordable detached dwellings, with all matters reserved except for access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was in outline with only access to be determined at this stage. Matters relating to layout, scale and landscaping were reserved for future consideration.
3. The application and appeal forms described the proposal as set out in the above header. However, the Council's decision notice gave it as: "outline planning application (means of access to be considered) – ten detached dwellings". It was agreed at the Hearing that the inclusion of 'affordable' in the Appellant's original description was not appropriate. However, neither was the exclusion of reference to 'self-build' in the Council's decision notice. It was therefore agreed that an accurate description of the proposal is: 'a development of 10 self-build detached dwellings, with all matters reserved except for access'. I have determined the appeal on this basis.
4. It was agreed at the Hearing that the plans to be determined in this appeal are: Location Plan PL-101 Rev A, Extended Site Plan PL-102 Rev A which showed the alignment of the road that would serve the whole development, and Access Appraisal drawing 10. In addition, a Block Plan, PL-103, was presented showing how 10 detached dwellings could be accommodated on the site. I have treated this as illustrative. I have also had regard to the Design Code set out in the Design and Access Statement which proposed maximum building heights of between 4-9m.
5. West Suffolk Council became a single authority in April 2019. The development plans for the previous local planning authorities were carried forward to the new council by regulation. The relevant development plan therefore comprises the Forest Heath Core Strategy 2010, (Core Strategy), the Forest Heath Site

Allocations Plan 2019 (SALP) and the Forest Heath and St Edmundsbury Local Plan: Joint Development Management Policies Document, 2015 (JDMPD).

6. The application was refused for seven reasons. Submission of a reptile survey with the appeal addressed the fourth of these and satisfied the Council that the issue of protected species could be addressed by planning condition. Similarly, the Council indicated that conditions relating to landscaping and an ecological management plan would address its concerns in respect of biodiversity set out in its fifth reason for refusal.
7. A draft planning obligation was submitted prior to the Hearing which would ensure that the development would meet the definition of self-build housing set out in the Self-Build and Custom Housebuilding Act 2015 (the Act). Secondly, it would secure financial contributions to County Council services relating to education, school transport, early years facilities and libraries. This addressed the Council's seventh reason for refusal. Following discussions at the Hearing I gave a deadline for receiving a completed obligation of 2 August and subsequently agreed an extension to 16 August. However, although I received an amended draft, it had not been executed and I therefore cannot take it into account in my decision.

Main Issue

8. Taking all of the above into consideration the main issues are therefore:
 - a) Whether the site is suitable for residential development having regard to the Council's spatial strategy:
 - b) Whether the site's location would provide adequate access to services and facilities for future residents:
 - c) The effect of the proposal on the character and appearance of the countryside.

Reasons

The Council's spatial strategy

9. The appeal site is an area of 1.34 hectares which wraps around Halfway House, a large, detached house situated on Burwell Road. The site lies outside the settlement boundary of Exning, a village about 1km to the east. The site's western boundary coincides with the boundary between West Suffolk and Cambridgeshire and about 400m from the edge of the village of Burwell. It was agreed that for the purposes of planning policy the site is in the countryside where Policy DM5 of the JDMPD restricts residential development. There was no evidence presented to suggest that the appeal proposal would meet any of the exceptions set out in that Policy.
10. Policy CS1 of the Core Strategy sets out a settlement hierarchy for the District comprising seven types of place. The overarching aim of the strategy is to focus new development within or immediately adjacent to existing settlements. Exning is defined as a Primary Village, a third-tier settlement, where allocations for additional housing will be designated to meet local needs and support rural sustainability having regard to the capacity of the village to accommodate growth. Policy SA1 of the SALP defines the settlement boundaries and supports residential development within those boundaries. A significant housing

development is currently nearing completion as an extension to Exning (Chancery Park). However, it does not include any provision for self-build housing.

11. The appeal site is some considerable distance outside the settlement boundary of Exning. It is also remote from the market towns and key service centres which have been identified as the primary places where new development should be provided. There is no policy in the development plan which relates specifically to the location or provision of self-build housing. Nevertheless, I conclude that the proposal would conflict with the Council's spatial strategy, contrary to the aforementioned policies.

Accessibility to local services

12. Exning is a village with a range of services including a primary school. However, Burwell Road is a rural road with no footways and at the appeal site traffic is subject to the national speed limit of 60mph. Whilst no evidence was presented about speeds, it was apparent from my site visit that speeds are higher than the 30mph and 40mph limits imposed on the approaches to the villages. Neither could it be described as a quiet rural road; noise from traffic was noticeable throughout the visit.
13. The perception of danger associated with walking along Burwell Road would be significant during daylight hours and even more so in the dark, particularly for school age children. Suffolk County Council require an assessment of walking and cycling routes from new housing development to schools. The presumption is that all pupils should be able to access schools within a safe walking distance. In their view Burwell Road would not provide a route along which children could walk in reasonable safety, even if accompanied. Whilst any child attending Exning primary school would be eligible for school transport provided by Suffolk County Council the only alternative would be for parents/carers to drive their children to school.
14. It is therefore highly unlikely that future residents from the proposed development would choose to walk or cycle to Exning to meet their day-to-day needs. It is simply too far from the site to be reached safely by active travel modes.
15. As the site is closer to Burwell it is more likely that residents would go there for some of their day-to-day needs. The village has a good range of services, many of which are listed in the Statement of Common Ground (SoCG). However, they are scattered throughout the settlement. All are at least 1km away and over half of them are more than 1.6km from the site. The proposal would therefore not promote use of active travel modes, even if an adequate footway could be provided as these are distances which people would be unlikely to walk on a regular basis. The distances are significantly more than Manual for Streets (MfS) or the National Design Guide suggest for walkable neighbourhoods which are characterised by a range of facilities within a 10-minute walk (up to 800m).
16. The likelihood of future residents walking into the village regularly will be affected by factors other than distance. These include the quality of the route, their perception of its safety, the weather, their physical abilities, the time it would take, and whether they have access to a car. The proposal included a commitment to provide a new 2m footway from the site across the disused

railway line to connect to an existing footway. However, between that point and the edge of Burwell this footway is narrow and overgrown before it connects with an improved section of footpath/cycleway which has been constructed to serve a significant residential development on the eastern side of the village at Melton Farm. Improvements to this inadequate section of footway would also be required to provide a continuous pedestrian route into the village. These could only be secured with approval of Cambridgeshire County Council as highway authority, but I have no evidence before me that this has been agreed.

17. Future residents could choose to walk into Burwell to meet some of their day-to-day needs. However, I consider the probability of them doing so regularly is small. This is particularly relevant when considering the journey to the primary school, which is more than 2km from the appeal site. Although in Cambridgeshire, parents could request a place at Burwell Village College Primary School. However, this daily term-time journey would take at least half an hour on foot. This would be an excessive time and distance for young children to do on their own, and overly time consuming for parents/carers to accompany them.
18. In these circumstances it will nearly always be quicker, safer, and more convenient for residents to choose to drive their children to school and to travel by car to the other places they need to reach. There are bus stops within 500m, which provide services to Newmarket and Cambridge. Public transport would therefore be an option for a limited number of journeys. However, this does not outweigh the poor access by walking and cycling which are the first priority within the movement hierarchy.
19. The implementation of the footpath/cycleway proposed along the full length of the B1103 between Exning and Burwell could tip the balance in favour of cycling for a small number of journeys to either village. However, that is dependent on the completion of the other developments and there was no evidence before me as to the likely timing of its completion. The benefits it would bring to this proposal therefore carry limited weight in my determination of the appeal.
20. This combination of factors would leave future residents of the appeal site primarily reliant on a car to reach the services and facilities they need, some of which would require journeys to Newmarket, Mildenhall or further afield. Neither walking nor cycling to Exning would be practical or feel safe. Opportunities to walk to Burwell would be limited by the time that it would take to reach the village and the perceived safety of the footpath alongside a road with no street lighting and fast-moving traffic for part of its length.
21. The National Planning Policy Framework (the Framework) recognises that opportunities to maximise sustainable transport solutions will vary between rural and urban areas. Nevertheless, it seeks to focus significant development in locations that offer a genuine choice of transport modes. By approving developments on the edge of the villages of Exning and Burwell the Council's have ensured that future residents would have access to services which could be reached by different modes of travel. This would not be the case for occupants of the appeal site even with improvements to the footpath to Burwell, as the distance and characteristics of the route would considerably restrict their realistic transport choices.

22. This leads me to conclude that the location would not provide adequate access for future residents to the facilities and services they need, as they would be over-reliant on travel by car to reach them. The proposal would be contrary to Policy DM46 of the JDMPD which seeks to reduce over-reliance on the car and promote more sustainable modes of transport. It would also be at odds with Spatial Objective T1 of the Core Strategy which seeks to ensure that new development is located where there are the best opportunities for sustainable travel and the least dependency on car travel.

Character and appearance

23. The appeal site is part of a large field previously in agricultural use but now somewhat overgrown with grassland, thistles, and other herbaceous species. The proposed development would be accessed by enlarging and amending the existing entrance to Halfway House and providing a 5.5m road flanked by 2m footways that would pass to the rear of the house before turning through approximately 90 degrees towards Burwell Road. At that point the footways would narrow to 1m on either side. The proposal would provide 10 serviced building plots accessed from the shared surface shown on Drawing No PL-102 A. The maximum heights that would be acceptable on each plot were indicated in the Design and Access Statement and on Block Plan PL-103. The Landscape and Visual Assessment (LVIA) which accompanied the application based its assessment on these maximum heights.
24. Burwell and Exning lie within the East Anglian Chalklands characterised by largescale arable landscape of open rolling fields, blocks of woodland and scattered settlements. Burwell is a fen-edge settlement at the interface of the Chalklands with the Fenlands and the area to the west of the village is predominantly flat. It is not landscape that is protected through any national designation, and neither could it be considered to be a valued landscape in terms of the Framework.
25. The appeal site lies in the transitional area, which can include significant tree cover, between these two distinct character areas. A linear woodland stretches along the former Cambridge to Mildenhall railway line and provides the site with a significant degree of enclosure on its western edge. To the east of the site and parallel with the former railway line is a public right of way (PROW). The section of this PROW closest to Burwell Road is screened from the site by a well-established if somewhat unkempt hedgerow. Further to the north-east the path opens up and there are significant gaps in the hedge which give views into the appeal site and from where Halfway House is highly visible. An open area of some 4.5 hectares between the railway and the PROW are understood to be within the appellant's ownership, to the north of which is an area of woodland.
26. The vegetation surrounding most of the site means that it is largely visually enclosed from public viewpoints. Views into the site will be more evident when the trees and hedgerow vegetation lose their leaves in the winter months, Nevertheless, the zone of visual influence shown in the LVIA demonstrates that the houses, if restricted to the heights suggested in the Design Code would only be apparent in transient view from a limited number of points around the site. Any adverse visual effects on the wider landscape would therefore not be significant.
27. The principal effects of the development would be the loss of an undeveloped field and the introduction of 10 detached dwellings served by a long cul-de-sac.

Although the precise layout is not to be determined at this stage, the suburban form indicated in the illustrative plan would be intrusive and alien form of development in this predominantly open countryside. In addition to the height and bulk of the dwellings, there would be their associated gardens, lighting and domestic paraphernalia and the comings and goings from them. Even though it would not be visually prominent, a development of this scale and intensity would harmfully erode the gap between the two villages and reduce the sense of tranquillity in the area to the north of the road.

28. It is likely to be necessary to reduce the roadside boundary vegetation to provide the required sightlines for the enlarged access. To accommodate the additional movements from 10 dwellings, the access would have a more formal appearance than the existing driveway which only serves a single dwelling. These changes at the site's boundary would diminish the rural character of Burwell Road.
29. This leads me to conclude that there would be demonstrable harm to the character and appearance of the area even in the absence of any significant harm to the wider landscape. The proposal would fail to comply with Policies DM5 and DM13 of the JDMPD and Policy CS2 of the Core Strategy which require development to be in keeping with local character and not to cause significant or unacceptable adverse impacts on the landscape.

Other Considerations

Housing supply

30. The appeal site is in the former Forest Heath area and its local plan was adopted less than 5 years ago. Consequently, as advised by paragraph 76 of the Framework, the Council is not required to identify and update its list of specific deliverable housing sites as it was able to demonstrate a five-year supply at the time that its examination concluded. Furthermore, the Council can demonstrate that housing is being delivered in its area. Figures published in December 2023 showed that West Suffolk achieved a Housing Delivery Test of 129%.
31. This strongly indicates that the Council's spatial strategy is effective in ensuring adequate delivery of housing. Whilst there is no policy in the development plan to specifically address the need or demand for Self-Build and Custom Housing, there are a raft of policies that are relevant to the consideration of this proposal, and which were listed in the agreed SoCG. These policies are broadly consistent with the approach set out in the Framework which advocates maximising the use of previously developed land, locating development where there is access to a wide range of facilities, permitting housing in rural areas where it will enhance or maintain the vitality of rural communities and avoiding isolated homes in the countryside. There is nothing in the Framework to indicate the defining settlement boundaries is not a suitable policy to direct development towards the most appropriate locations, having regard to other objectives in the development plan. Furthermore, the Framework also seeks to promote development that is sympathetic to its context, whilst recognising the intrinsic character and beauty of the countryside.
32. I have been referred to two decisions where the Inspectors applied the test of paragraph 11 d) ii) due to the lack of specific policies relating to SBC housing. However, as explained above the development plan includes a body of relevant

policies which are more than sufficient for me to assess the scheme's acceptability. For this reason, and having regard to the Court's approach to this matter¹, I consider that the most important policies referred to in the SoCG are up to date and conflict with them carries full weight. Consequently, the test set out in paragraph 11 d) ii) of the Framework does not apply. Planning law therefore requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise.

Demand for Self-Build and Custom Housing

33. The Self-Build and Custom Housebuilding Act 2015 (the Act) requires local planning authorities to establish and publicise a register of those seeking to acquire serviced plots of land in the authority's area for the purposes of constructing their own home. Local planning authorities also have a duty to grant permission for enough serviced plots to meet the demand for self-build and custom housebuilding in their area arising in each base period.
34. The SoCG sets out a table of the number of people added to the register for Self-Build and Custom (SBC) housing. It shows that 171 people have registered their interest in acquiring a plot in the period between April 2016 and July 2023. At the time of the Hearing some 167 remained on the Council's SBC Housing Register. The Council stated that only 3 specific self-build plots had been given planning permission. This suggests that there is a significant demand, and that the Council has failed in its duty as outlined above. Although the Council believe that other self-build projects may have been implemented, they have had insufficient means of capturing them through their current monitoring procedures.
35. There is currently no fee charged and only limited eligibility criteria set out for an individual or organisation to be included on the SBC register. As individuals can choose to be on the registers of many different authorities, it seems likely that the overall number of registrants is an over-estimate the true level of demand. At the Hearing the Council indicated that they are intending to review the register and introduce eligibility criteria to give them a more realistic estimate of demand in the future. Aware of the large disparity between apparent demand and supply I requested additional information about the SBC register prior to the Hearing.
36. Applicants can be added to the SBC register by completing a questionnaire. The information from the questionnaire provides a wealth of detail about registrants. It covers matters including local connections, income, current home ownership/tenure, preferred location type (town, village, countryside) and the different reasons that people want to build their own home. Although the majority of registrants either live and/or work in West Suffolk, a significant proportion have no connections with the area. About half would prefer a village or countryside location but the remainder appear to want to keep their options open and expressed no preference. However, without a more systematic analysis of the questionnaire responses and engagement with those on the register, I consider it is difficult to provide a realistic estimate of the true level of overall demand or likely demand for a site such as the one before me.
37. The Council suggested that only 4 people on the register expressed interest in Exning. However, it had not consulted these or others on the register about

¹ Paul Newman Homes Ltd v SSHCLG & Aylesbury Vale District Council [2021] EWCA Civ 15

this site. Neither was there any evidence that had the Appellant brought the possibility of the site gaining planning permission for self-build serviced plots to any prospective purchasers. The only public responses to the notification of the application and the appeal were objections from the Parish Council, due to its countryside location and road safety concerns. The owner of Halfway House also raised concerns about the effect of the development on their living conditions. I therefore have no specific evidence that serviced plots in this location would meet the aspirations of self-builders on the register. This would be at odds with the advice of the Planning Practice Guidance² which states that the register should be used to '*permission land suitable for SBC housing which people are actually keen to develop*'.

38. I appreciate that other appeals have been successful where Inspectors gave significant or substantial weight to the benefits of providing self-build plots. However, those sites were assessed based on the evidence presented at the time and the site-specific locations. None of those schemes are therefore directly comparable with this one.

Planning obligation

39. A draft planning obligation was submitted with the appeal. However, no executed agreement was provided to meet the deadline set after the Hearing had concluded. However, it would have secured a Protected Occupation Period for each Self-Building Dwelling to meet the requirements of the Act.
40. I also acknowledge that a number of financial contributions towards the provision of County Council services would have been secured through the obligation. I was satisfied that these were reasonable and necessary and met the tests of the set out in the Community Infrastructure Levy Regulations.
41. The Council also refused the scheme due to a lack of a legal agreement to secure affordable housing. However, as I have found the scheme unacceptable for other reasons, it has not been necessary for me to address this issue.

Planning Balance

42. The appeal site's location is contrary to the Council's spatial strategy which seeks to focus residential development within or adjoining existing settlements and only permits housing in the countryside in exceptional circumstances. I do not consider the provision of self-build plots amounts to a justification for setting aside the spatial strategy. This is a matter which carries very significant weight as the Council has a positive record in respect of housing delivery.
43. The site is unsuitably located because future residents would be over-reliant on a car due to its distance from the services and facilities they would require. It would be dangerous to walk or cycle to Exning and the quality of walking and cycling routes to Burwell would be inadequate. Residents would not have realistic or genuine choices of transport mode. This is a significant factor which weighs against the scheme.
44. Although the proposal would not cause unacceptable harm to the wider landscape of the transitional area between the East Anglian Chalklands and the Fenlands, it would introduce development of a suburban character into open countryside between the two well-established villages of Exning and Burwell. It

² PPG: Paragraph 028 Reference ID: 57-028-20210508

would be an intrusive and incongruous development that would considerably erode the gap between the villages, harmfully diminishing the rural character of the area. This is also a matter of significant weight.

45. On the other hand, the delivery of 10 self-build serviced plots would contribute to the unmet demand for such plots across the district. It would assist the Council in meeting its duty to grant permissions in support of those individuals and groups who wish to build their own home. However, with no substantive evidence of interest from registrants in this particular site, this is a benefit which attracts only significant weight in the planning balance.
46. Taking all these matters into consideration I conclude that the benefits associated with the proposal would not outweigh the very significant cumulative and collective harms arising from the site's location beyond any defined settlement, the lack of genuine transport choices and its adverse effects on the countryside.

Conclusion

47. The proposal conflicts with the development plan and the material considerations do not indicate that a decision should be made other than in accordance with the development plan. Consequently, the appeal is dismissed.

S M Holden

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Tim Waller	Director Waller Planning
Stephen Wadsworth	Landscape architect – Richard Morrish Associates
Mr Tiwana	Tiwana Construction

FOR THE LOCAL PLANNING AUTHORITY

Charlotte Waugh	Principal Planning Officer
Boyd Nicholas	Principal Planning Policy Officer
Neil McManus	Development Contributions Officer (Suffolk County Council)

DOCUMENTS SUBMITTED AT AND AFTER THE HEARING

1. Legal opinion in the matter of Rampton Road, Cottenham, Cambridgeshire by Charles Banner KC and Matthew Fraser, dated 20 December 2023.
2. Signed copy of the Statement of Common Ground.
3. Appeal APP/W0530/W/23/3322754: Land south of The Causeway, Kneesworth, Cambridgeshire SG8 5JB