



## Appeal Decision

Inquiry Held on 4-6 July 2023

Site visit made on 5 July 2023

**by Stephen Wilkinson BA BPI Dip LA MBA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26/07/2023**

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**Appeal Ref: APP/W3520/W/23/3317494**

**Land east of Ixworth Road, Thurston, Suffolk**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Gladman Developments Ltd against Mid Suffolk District Council.
  - The application Ref DC/19/02090, is dated 18 April 2019.
  - The development proposed is development of up to 210 dwellings and new vehicular access to include planting and landscaping, natural and semi natural greenspace(s), children's play area and sustainable drainage system (SuDS), to include 35% affordable dwellings.
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### Decision

1. The appeal is allowed and planning permission is granted for the development of up to 210 dwellings and new vehicular access to include planting and landscaping, natural and semi natural greenspace(s), children's play area and sustainable drainage system (SuDS), to include 35% affordable dwellings at land east of Ixworth Road, Thurston, Suffolk in accordance with the terms of the application, Ref DC/19/02090, dated 18 April 2019, subject to the conditions included to the schedule included with this decision.

### Procedural Matters

2. The appeal is in outline with all matters reserved apart from access. The appeal was accompanied by a draft Section 106 Agreement (the S106). After the close of the Inquiry, I received a completed S106 dated 6 July 2023.
3. On 8 March 2023 the Council agreed a putative reason for refusal relating to the proposed location of the appeal scheme.
4. The development plan includes, the Mid Suffolk Local Plan 1998 (MSLP), with Alterations 2006, the Mid Suffolk Core Strategy (CS) 2008 and the Core Strategy Focussed Review (CSFR) 2012 and the Thurston Neighbourhood Plan (TNP) 2019.
5. Hearings into the Main Modifications of the emerging Joint Local Plan (EJLP) with Babergh District Council have recently been completed. Although the policies of the EJLP are not cited in the Council's putative reason for refusal, references were made to both its evidence base and its draft policies during the Inquiry.

## **Main Issue**

6. The appeal raises the following issue:

- Whether or not the location of the proposed development is acceptable having regard to adopted national and local policies and those emerging in the Joint Local Plan.

## **Reasons**

### *Relevant planning history*

7. In January 2020 a resolution was agreed that outline permission be granted for 210 dwellings on a site off Beyton Road, Thurston, (the Bloor Homes site). A successful challenge lodged by the Parish Council in the High Court against the Council's decision was subsequently overturned by the Court of Appeal in October 2022<sup>1</sup>; the permission was retained.
8. In September 2020 the Council resolved to grant planning permission, for what has now become the appeal scheme, subject to the completion of a S106. Given the similarities between the appeal scheme and the Bloor Homes scheme i.e. they both lie on the outside edge of the settlement boundary of Thurston, the Council stayed further work on the S106 until the outcome of the challenge had been resolved. The S106 was completed in November 2021.
9. In March 2021 the Council submitted the draft EJLP to the Secretary of State. The draft plan included Thurston as a focus for housing development and allocated the appeal site for approximately 200 houses (reference LA089).
10. Hearing sessions into the emerging local plan were suspended owing to the Examining Inspectors (ExI) concerns over the strategy and the housing allocations. The ExI in noting that around 90% of the total housing requirement figure was included in existing completions, sites under construction and sites with full or outline permission, advised the Council that a review was required of both the settlement hierarchy and the proposed housing allocations.
11. The Council, substantially revised the EJLP, with a draft Part 1 now focussed on the joint vision, strategy and development management policies. There is no programme for the Part 2 plan which would address the settlement hierarchy, their boundaries and site allocations. The appeal site was removed as a housing allocation as part of the Main Modifications.
12. Following the lodging of this appeal over the non-determination of the application the Council at its meeting of 6 March 2023, resolved that it would have refused permission due to the location of the site beyond the settlement boundary in conflict with Policies CS1, CS2 of the Core Strategy and Policy H7 of the Mid Suffolk Local Plan.
13. Since 2020, the Council's housing land supply position increased from 5.4 to 10.88 (May 2023) years supply.

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<sup>1</sup> CD6.4

## ***Location of development***

### *Policy considerations*

14. The appeal site comprises an arable field, rectangular in shape, which lies on the northern edge of Thurston along the east side of Ixworth Road, just south of a rugby ground. To both its west and east are two separate development sites which are included in the 'Thurston 5', that is five development sites which benefit from planning permission for around 827 dwellings. It is agreed by the main parties that the appeal scheme would not extend further north than these neighbouring schemes<sup>2</sup>.
15. The site lies around 700metres from the village centre allowing access on foot to services which include a pharmacy, Co-op store and community centre and rail station. The Council has no objection to the scheme's proximity to services which both parties agree can be accessed by active travel modes. Nor does the Council object to the scheme on landscape character and appearance.
16. Both parties agree that there is 10.88 year housing land supply and that the site lies outside the settlement boundaries contrary to the most important policies included in the Development Plan which include Policies CS1, CS2 and H7.
17. Together these three policies aim to direct development to towns and key service centres such as Thurston. Outside these centres whilst Policy CS1 requires that local housing needs could be located in primary and secondary villages, Policy CS2 aims to protect the countryside for its own sake with development restricted to specific types of development which do not include major housing development. Policy H7 seeks the protection of the existing character and appearance of the countryside requiring strict control over new housing.
18. I find that together these three policies serve to focus development within the settlement boundaries of the main settlements based on the adopted hierarchy identified in the Core Strategy.
19. On the advice of the Neighbourhood Plan Examiner the TNP now includes the Thurston 5 within its settlement boundary. However, this boundary does not include both the appeal site and the Bloor Homes site.
20. The Court of Appeal's judgement in the Bloor Homes case<sup>3</sup>, clarified the interpretation of the policies of the TNP with their application. This identified that the Council's decision to grant permission for that scheme did not conflict with the TNP. This is a matter of common ground between the two main parties and I find that the same circumstances apply in this instance. Whilst I recognise that there is a tension between the policies of the TNP and the appeal site's location beyond the settlement boundary this does not amount to a policy conflict.
21. I conclude therefore that the proposed scheme conflicts with Policy H7 of the Local Plan and Policies CS1 and CS2 of the Core Strategy.

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<sup>2</sup> Statement of Common Ground

<sup>3</sup> Bloor Homes

## Material Considerations

22. Both parties differ on the weight they apply to the additional market and affordable housing, new open space, highways connectivity, ecological benefits and economic benefits which are included in the scheme.

### *Housing*

23. The appeal scheme includes 135 market and 75 affordable houses.
24. The ExI<sup>4</sup> identified that the two Councils (Babergh and Mid Suffolk) have around 90% of their total housing requirement included in sites benefitting from full or outline planning permission, resolutions to grant permission, allocations in Neighbourhood Plans and windfall allowances.
25. The Council's own housing figures<sup>5</sup> which are not disputed by the appellant, identify that it has a total committed supply of around 7,882 dwellings. When account is taken of completions for the period 2018-2021 and anticipated windfalls the total identifiable supply at April 2022 was 10,195 amounting to 100% of its local housing need for the plan period. Delivery of affordable housing in the period 2018-2022 has been in excess of need by around 127 units.
26. This picture is reflected in the figures for Thurston where the total number of homes expected to be delivered in the period 2022 to 2027 is around 797 out of a total of around 881 for the whole of the plan period. Within these figures 291 will be affordable homes.
27. I accept that these figures would be in excess of the numbers of households included in the housing register and particularly high when considered for those households which have a local connection to Thurston.
28. However, the District still experiences chronic levels of housing need as demonstrated by the increasing 'median affordability ratios'<sup>6</sup> which are higher for the District than that of the County and the East of England. Furthermore, the District still has unacceptably high waiting times for family sized dwellings.
29. The Government's objective of significantly boosting the supply of new homes expressed in Paragraph 60 of the National Planning Policy Framework (the Framework) remains a priority. Whilst the weight which I attach to the delivery of market and affordable housing is tempered by the Council's delivery record<sup>7</sup> and HLS, I still accord the market and affordable housing included in this scheme limited and moderate weight respectively.

### *Highway Matters*

30. The Transport Assessment and other studies submitted with the appeal identify that the increased traffic arising from the scheme would require additional highway measures designed to improve highway capacity and safety at three junctions within Thurston.
31. These measures include two toucan crossings, one on Ixworth Road and one on Barton Road, two zebra crossings (one on Station Hill and one on Norton

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<sup>4</sup> CD8.8

<sup>5</sup> Mr Bennett PoE

<sup>6</sup> Mr Carvel PoE Figure 4

<sup>7</sup> Housing Delivery Test 137%

- Road), three uncontrolled pedestrian crossings (one on Barton Road and two near the Norton Road crossroads) and a footway along the eastern side of Ixworth Road. In addition, a cycle lane and footpath are proposed running along the south side of the site adjacent to the existing public footpath which would connect Ixworth Road with Meadow Lane. Whilst some of these measures are included in funding from the S106 for the permissions for the Thurston 5, the suggested changes are proportionate to the amount of development included in this scheme.
32. An interested party has raised concerns over the potential for additional queuing at the junction of Norton Road/Ixworth Road during the school rush hour. However, I find that the proposed highway measures would reduce reliance on private transport for occupiers of the appeal scheme requiring access to both the College and the new primary school located off Norton Road.
33. In addition, the S106 include provision for an on site car club (or a financial contribution of up to £50,000 if this cannot be delivered), provision of a communal electric vehicle charging point and a £150 voucher for each property towards bike purchase and storage. The County would benefit from a travel plan monitoring fee of £1,000. These measures would provide a choice of transport mode reducing reliance on private transport and are supported by Policies TNP6, and local plan policies T11 and T14.
34. The Bunbury Arms junction on the A143 Bury Road/Thurston Road lies north of Thurston and is proposed to be signalised with funding derived from the CIL payments included in the Thurston 5 permissions. The officer's report on the Bloor Homes scheme<sup>8</sup> identified that even with the proposed changes to this junction there could be capacity issues which could be resolved through the introduction of software designed to address this.
35. The appeal scheme includes a £45,000 payment included in the S106 Agreement for a MOVA<sup>9</sup> system. By responding to real time patterns of traffic flow and turning movements the system allows phasing to maximise capacity. This would be required by the additional demands placed on the network by the appeal scheme.
36. The Council places only limited weight on the implementation of the MOVA when compared to the highway improvements included in the Bloor Homes scheme. I find however, it would have considerable strategic benefits to easing the anticipated increase in traffic flow through this junction arising from the implementation of this scheme and the Thurston 5 schemes.
37. This was acknowledged by the Highway Authority during their original consideration of this application in 2020<sup>10</sup> and supported in their evidence for this appeal<sup>11</sup>. The fact that implementation of the MOVA system would not be dependant land purchase, as was the junction alterations in the Bloor scheme does not undermine its importance. The introduction of MOVA system meets the tests outlined in the Framework and would have strategic benefits to highway capacity.

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<sup>8</sup> CD10.13

<sup>9</sup> Microprocessor Optimised Vehicle Actuation

<sup>10</sup> CD3.27

<sup>11</sup> Mr Barber PoE para 4.3

38. Other highway improvements would have considerable benefit to the local highway network which extends beyond mitigation for the appeal scheme. In particular, the junction improvements at Heath Road and Barton Road would benefit cyclists on NCR 51 which connects Bury St Edmunds to surrounding villages.

39. I accord these improvements moderate weight.

#### *Ecology*

40. The appeal site includes hedgerows and mature trees along its eastern and northern boundaries which have ecological interest.

41. The ecological appraisal<sup>12</sup> identifies how biodiversity benefits could be delivered. These include hedgerow reinforcement planting, the creation of priority habitats within SUDS<sup>13</sup>, the introduction of species rich grassland/heath communities bird nesting and bat roosting boxes and hedgehog cut outs along all timber fencing to allow movement and habitat connectivity. These measures could be controlled through planning condition if the scheme was allowed.

42. The site currently has limited ecological interest but further surveys are required and detailed schemes of enhancement designed. For this reason, I accord only limited weight to this aspect.

#### *Open space*

43. It is acknowledged that the scheme would include areas of open space. However, in the context of the site's location on the edge of Thurston and benefitting from an established footpath network into open countryside, it is unlikely that the amount of public open space provided would have an attraction for residents other than those living in the proposed scheme.

44. For this reason, I accord only limited weight to this aspect of the appeal scheme.

#### *Economic Benefits*

45. I accept that the appeal scheme could deliver a range of economic benefits. The appellant identifies a potential construction spend of £25.6million, 219FTE<sup>14</sup> construction jobs and full occupation of the scheme could lead to a new resident expenditure of around £6.57m in local shops and services. These figures are not contested by the Council.

46. Whilst I recognise that the site has an economic value as an arable field<sup>15</sup>, the value derived from the delivery of the appeal scheme would sustain considerable value for the local economy. For this reason, I accord these matters moderate weight.

#### *Conclusions*

47. I accord the benefits derived from the inclusion of affordable housing, highways and economic benefits moderate weight. Market housing, ecology and open space would have limited weight.

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<sup>12</sup> CD1.9 Preliminary Ecological Appraisal – CSA Environmental July2019

<sup>13</sup> Sustainable Drainage Systems

<sup>14</sup> Full Time Equivalent

<sup>15</sup> Representations by Cllr Davies

## Planning Obligations

48. The Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 57 of the Framework set a number of tests for planning obligations: they must be necessary to make the development acceptable in planning terms, be directly related to the development, and be fairly and reasonably related in scale and kind to the development.
49. In addition to the transport measures identified above the S106 includes other covenants in favour of both the District Council and the County Council.
50. The covenants require that 35% of dwellings are affordable with tenures to be agreed with the Council. Delivery would be phased throughout implementation of the whole scheme. These arrangements are supported by Policy H4 of the Local Plan which is consistent with Paragraph 63 of the Framework being necessary to enable choice of housing.
51. To address the education requirements arising from the anticipated child yield from the scheme, a contribution of £67,288 is included towards the purchase price of land for new classrooms at the existing primary school on Norton Road. Building costs are based on the BCIS<sup>16</sup>. This is required to 'future proof' the school from the impact of new development and is based on a proportionate land contribution for 52 school places.
52. Furthermore, £1,619.40 per dwelling for additional early years and £4167.15 per dwelling towards additional primary school places is included in the S106. These measures are consistent with National and County wide Guidance<sup>17</sup> and Policies FC2, TNP1 and TNP5. I regard these provisions as in line with the Framework.
53. Funding of £3,000 for a public electric vehicle charging point in Thurston is included in the S106 as a back-up measure in the event that it cannot be provided within the layout of the proposed scheme.
54. Capital funding of £200,000 is included for the provision of new play equipment. A maintenance sum of £4.59 per square metre per annum of public open space with additional £0.62 contribution on the same terms towards the maintenance of equipped play areas is included in the S106. These provisions are consistent with Policies TNP5, and Policies RT4 and CS6. The costings represent a proportionate contribution in line with the TNP5.
55. Other measures included in the S106 are the Priority Farmlands Bird Mitigation Strategy requiring the provision of two additional skylark nesting sites for each one identified in surveys of the appeal site. This could be delivered through agreement with neighbouring landowners. These measures recognise the importance of habitat protection for this red list species and are in line with Policies CS5 and CL8.
56. I am satisfied that the Travel Plan monitoring fee included in the S106 is consistent with Policies TNP1, TNP6 and TNP7.
57. The S106 includes the provision of infrastructure which is necessary, directly required and fairly and reasonably related in scale to the appeal scheme. I am

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<sup>16</sup> Building Cost Information Service

<sup>17</sup> Statutory Framework for the early years foundation stage: setting the standards for learning and development and care for children 2021 and the Section 106 Developers Guide to Infrastructure Contributions in Suffolk 2012.

satisfied that each of these covenants fall within the provisions of Regulation 122 of the CIL Regulations and Paragraph 57 of the Framework.

### **Planning balance and conclusions**

58. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise.
59. Both parties acknowledge that the most important policies are out of date. This is a matter which I consider in detail later in this decision. In these circumstances, the Framework advises that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
60. However, the fact that policies have to be considered as out of date does not mean that they carry no weight. To carry weight policies must be consistent with the Framework, as explained in Paragraph 219 which amongst, other things, explains that the closer that policies in the plan are to policies in the Framework, the greater weight that may be given to them. As such it is perfectly possible for policies which are deemed out of date to still carry significant weight.

#### *Development Plan*

61. Policy CS1 includes a settlement strategy requiring new development to be located within existing settlements with limitations on development which would be allowed in the countryside. The policy is consistent with the social and environmental objectives of the Framework in directing development to the main centres across the district thereby reducing reliance on private transport and leading to the protection of the natural environment.
62. Policy CS2 identifies categories of development which would be allowed in the countryside outside the main centres defined by CS1. This is restrictive in nature and inconsistent with the Framework in the degree of protection it would afford the countryside compared to the more nuanced approach now required by the Framework. Whilst I regard Policy H7 as being consistent with both Policies CS1 and CS2 in seeking to protect the countryside it refers to the protection of the existing character and appearance of the countryside. Landscape considerations are not part of the Council's case.
63. For the reasons which I explained above I do not find conflict between the policies of the TNP and the appeal scheme. The appeal scheme may be inconsistent with the TNP but this does not amount to direct conflict.
64. For these reasons, despite the Council's HLS position, I accord the appeal scheme's conflict with these three policies, the most important ones for this decision, only limited weight.

#### *Emerging Joint Local Plan*

65. The Council states that the appeal scheme would be contrary to the draft policies of the EJLP.
66. The Council's revised EJLP (Part 1 only) broadly reflects the advice of the ExI in substantially revising the draft plan into two parts. Hearings into the Main Modifications for the Part 1 plan were closed in the week before the Inquiry



opened. Although at an advanced stage of preparation significant changes were made to its policies from those submitted to the Secretary of State and the outcome of the Hearings is unknown.

67. The draft Part 1 policies seek the retention of the existing settlement boundaries. Consequently, the bulk of extant permissions which would achieve the EJLP's housing requirement lie on sites beyond them. Part 2 is embryonic with matters such as the settlement strategy, hierarchy and boundaries still to be determined.

68. For these reasons, I accord the EJLP very limited weight.

### *Material Considerations*

69. Set against the limited weight I accord to the conflict between the appeal scheme and the most important policies, it would include affordable housing, highway works and economic benefits which I accord moderate weight with limited weight for market housing, public open space and ecology.

70. Whilst the level of local housing need is not acute as in the Melford Case<sup>18</sup> there is still a need for affordable housing across the SHMA which the appeal scheme could contribute to. In this case, the S106 includes obligations requiring affordable housing to be directed to the provision of family housing. This is an area of recognised need within the district.

71. I acknowledge the force of the Council's argument regarding the need for public confidence in a plan led system but find that in this instance the most important policies do not hold when balanced against the material considerations.

72. I recognise that my findings in this respect do not reflect recent decisions of my Inspector colleagues<sup>19</sup>. However, whilst I do not have the full detail of these cases before me, they were either for smaller numbers of units which did not for example include affordable housing or, if for larger schemes involved consideration of a broader suite of policies where other considerations prevailed.

73. The appeal scheme lies in a location which allows access to services through a choice of transport modes and would not result in landscape harm.

### **Conclusions**

74. This is a finely balanced decision given the Council's HLS position. Overall, I conclude that the benefits of the appeal scheme would significantly and demonstrably outweigh the harm identified when assessed against the policies of the Development Plan, when taken as a whole. As such the proposed development benefits from the Framework's presumption in favour of sustainable development.

75. Accordingly, the appeal is allowed and planning permission is granted.

76. I recognise that this outcome will be disappointing to those opposing the development. However, the views of local people, very important though they are, must be balanced against other considerations, including national and local

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<sup>18</sup> CD9.6

<sup>19</sup> Mr Stroud Rebuttal appendices- references 3214324, 3297920, 3305532, 3312096 and 3308189

planning policy. In coming to my conclusions on the various issues that have been raised, I have taken full and careful account of all the representations that have been made, which I have balanced against the provisions of the development plan, the Framework and other material considerations. On balance though, the evidence in this case leads me to the view that the appeal should succeed.

## Conditions

77. I have considered the suggested conditions in light of the discussion at the Inquiry and the advice in both the Framework and the Government's Planning Practice Guidance. The conditions and wording set out in the schedule below reflect that discussion, although I have amended a number to make them more concise, precise and enforceable. The numbers referred to below relate to the corresponding condition in the schedule.
78. In addition to the standard conditions relating to outline schemes (1-3), it is necessary, in order to provide certainty, to identify the plans to which the decision relates, but only insofar as they relate to the matter of access (4).
79. Condition 5, requiring the submission of details of the size, mix and type of market dwellings to be submitted concurrent with the first application for reserved matters is imposed to allow the Council to plan for other related services consistent with the scheme. I do not agree with the imposition of Condition 6 as I consider that these matters would be a matter for the outstanding reserved matters.
80. A condition (6) requiring the submission of full details of drainage, including modelling, topographical plans and construction surface water management plan is required to reduce flood risk and/or contamination to areas surrounding the appeal site. For the same reason, I have imposed a condition requiring the submission of a sustainable drainage scheme (26).
81. I have imposed Condition 7 requiring additional bird surveys concurrent with the submission of the reserved matters given that only a preliminary ecological survey accompanied the appeal. To ensure that the site's ecology can be managed and enhanced as part of its development, I have imposed Condition 8. Condition 9 requires a delivery and enhancement strategy for those priority and protected species which surveys have already identified on the site. This is required by the Natural and Environment and Rural Communities Act 2006.
82. Linked to these conditions I have imposed Condition 10 requiring submission of a detailed statement and a tree protection plan. Condition 21 requires full details of a lighting strategy to protect nocturnal species such as bats. Furthermore, I have imposed a condition requiring the delivery of the mitigation and enhancement measures included in the Ecological Impact Assessment which was submitted with the appeal (27).
83. To ensure that the main vehicle access to the site maintains highway safety throughout the life of the development Condition 11 would remove permitted development rights to ensure that no obstructions are created within the sight lines included in the access strategy. In terms of the safety of future occupiers of the scheme I have imposed Condition 12, requiring the submission of full details of a separate access dedicated for emergency vehicles. For the same

- reasons Condition 18 requires that in advance of occupancy, carriageways and footways throughout the site are completed to at least binder course level.
84. In advance of the occupation of any dwelling within the site, I have included a condition requiring the completion of the suggested crossings on Ixworth Road and the junction improvements at Heath Road/Barton Road and Norton Road/Station Hill included in the Highways Technical Note, (May 2020).
  85. As a safeguard and to protect any archaeological remains which may be present within the site, I have imposed Conditions 14 and 23 requiring archaeological investigations.
  86. In order to safeguard highway safety and the living conditions of surrounding occupiers I have imposed Condition 15 which includes the submission of details to control construction activities. I have also imposed Condition 16 which requires a Construction Environmental Management Plan to conserve protected and priority species present across the site.
  87. Given the scale of the scheme allowed and the likely length of the construction programme Condition 17 is required to support a communication strategy to inform the surrounding occupiers and the Parish Council of the programme of construction activities.
  88. To support a choice of transport options for future occupiers of the site, I have imposed a condition requiring all households to be issued with Residents Travel Packs (19).
  89. There was some debate between the main parties on whether a condition is required to secure the details of the phasing and location of fire hydrants. I accept the Fire Services representations in this regard (Condition 21). I have imposed conditions requiring details of a water, energy and resource efficiency measures for the proposed scheme given increasing concerns over the impact of climate change (22).
  90. The appellant questions how the Council's suggested condition requiring removal of permitted development rights to protect the loss of parking spaces and garages would meet the tests included in the Planning Practice Guidance. I acknowledge the appellant's concerns in this regard and I am mindful of the Secretary State's advice on this matter. However, in this instance I regard the condition as essential to ensure that extraneous parking does not extend on to the highways in the development which could prejudice highway safety. For these reasons, I am satisfied that there is a clear justification for Condition 25.
  91. I have not imposed the suggested Conditions regarding the removal of permitted development rights in respect of extensions, dormers and means of enclosure. The Council consider that a condition to this effect is required in the context of the appeal site's edge of settlement location. I disagree in that such physical changes can add to interest in the streetscene. I have not imposed a condition as suggested.

*Stephen Wilkinson,*

INSPECTOR

## **Schedule of Conditions**

### **TIME LIMIT FOR IMPLEMENTATION**

1. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The development shall then commence not later than two years from the date of the final reserved matters approval.

### **RED-LINED APPLICATION AREA/NATURE OF DEVELOPMENT**

2. The development shall be carried out in accordance with the Site Location Plan CSA/4164/108 Rev A and Site Access Drawing 18366-003 Rev B.
3. The development hereby permitted shall not exceed 210 dwellings.

### **RESERVED MATTERS**

#### **General**

4. Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") of the development shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
5. Concurrent with the first application for the approval of reserved matters, details of the mix of type and size of the market dwellings to be provided shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

#### **Drainage**

6. Concurrent with the first reserved matters application(s) a surface water drainage scheme shall be submitted to, and approved in writing by, the local planning authority (LPA). The scheme shall be in accordance with the approved FRA (ref: 6359 Rev A January 2020) and include:
  - a. Dimensioned plans and drawings of the surface water drainage scheme;
  - b. Further infiltration testing on the site in accordance with BRE 365 and the use of infiltration as the means of drainage if the infiltration rates and groundwater levels show it to be possible;
  - c. If the use of infiltration is not possible then modelling shall be submitted to demonstrate that the surface water runoff will be restricted to  $Q_{bar}$  or 2l/s/ha for all events up to the critical 1 in 100 year rainfall events including climate change as specified in the FRA;

- d. Modelling of the surface water drainage scheme to show that the attenuation/infiltration features will contain the 1 in 100 year rainfall event including climate change;
- e. Modelling of the surface water conveyance network in the 1 in 30 year rainfall event to show no above ground flooding, and modelling of the volumes of any above ground flooding from the pipe network in a 1 in 100 year rainfall event including climate change, along with topographic plans showing where the water will flow and be stored to ensure no flooding of buildings or offsite flows;
- f. Topographical plans depicting all exceedance flow paths and demonstration that the flows would not flood buildings or flow offsite, and if they are to be directed to the surface water drainage system then the potential additional rates and volumes of surface water must be included within the modelling of the surface water system;
- g. Details of the maintenance and management of the surface water drainage scheme shall be submitted to and approved in writing by the local planning authority.
- h. Details of a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) is submitted to and agreed in writing by the local planning authority. The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction. The approved CSWMP and shall include: Method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:-
  - i. Temporary drainage systems
  - ii. Measures for managing pollution / water quality and protecting controlled waters and watercourses
  - iii. Measures for managing any on or offsite flood risk associated with construction

The scheme shall be fully implemented as approved.

### **Ecology and Biodiversity**

7. Concurrent with the first reserved matters application a Breeding Bird Survey following the Common Bird Census Methodology, shall be submitted to and approved by the local planning authority.
8. Concurrent with the first reserved matters application a Landscape and Ecological Management Plan (LEMP) shall be submitted to the local planning authority.

The content of the LEMP shall include the following:

- a. Description and evaluation of features to be managed.
- b. Ecological trends and constraints on site that might influence management.
- c. Aims and objectives of management.
- d. Appropriate management options for achieving aims and objectives.

- e. Prescriptions for management actions.
- f. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g. Details of the body or organisation responsible for implementation of the plan.
- h. Ongoing monitoring and remedial measures.

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

The development shall not be occupied until the LEMP has been approved in writing by the local planning authority and the approved plan will be implemented in accordance with the approved details.

9. Concurrent with the first reserved matters application a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a. Purpose and conservation objectives for the proposed enhancement measures;
- b. detailed designs to achieve stated objectives;
- c. locations of proposed enhancement measures by appropriate maps and plans;
- d. persons responsible for implementing the enhancement measures;
- e. details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter

### **Tree Protection**

10. Concurrent with the first application for approval of reserved matters a detailed method statement and tree protection plan shall be submitted to and approved in writing by the local planning authority, to also include details of protective fencing to be installed prior to commencement of development and retained throughout duration of building and engineering works. The approved scheme shall be carried out in accordance with the approved details and shall be completed in all respects prior to first occupation. Any tree/s dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with a tree or trees of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be approved, in writing, with the Local Planning Authority up to first use or first occupation of the development, following the death of, or severe damage to the tree/s.

## **Highways**

11. Before the access is first used visibility splays shall be provided as shown on Drawing No. 18366-003 Rev B and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.
12. The development shall be served by a second vehicular access, details of which shall be agreed in writing with the Council as part of the first reserved matters submission. Vehicular access shall then be restricted to emergency vehicles. For the avoidance of doubt this access could also be used by cyclists and pedestrians.
13. Prior to the occupation of any dwelling, pedestrian and cycle crossings generally identified on drawings 18366-010 rev B and 18366-004 rev B (Highways Technical Note, May 2020) shall be made available for use.

## **PRE - COMMENCEMENT CONDITIONS**

### **Archaeology**

14. No development shall commence until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved in writing by the Local Planning Authority.

The scheme of investigation shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- g. The site investigation shall be completed prior to the commencement of development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.

### **Construction Management**

15. Before the development hereby permitted is commenced a Construction Management Plan (CMP) shall have been submitted to and approved in writing by the Local Planning Authority. Construction of the development shall not be carried out other than in accordance with the approved CMP. No burning shall take place on site during the site clearance/demolition or construction phases of

the development.

The CMP shall include the following matters:

- a. haul routes for construction traffic on the highway network and monitoring and review mechanisms.
  - b. compound locations with full details [position, size and appearance] in relations to site office/s, welfare units, building material storage areas, skip/s, concrete silo/s, on-site parking areas for construction workers, site access arrangements,
  - c. overburden/topsoil storage areas, fuel storage, hazardous materials storage
  - d. provision of boundary hoarding with publicly visible contact details [phone and email] for site manager and lighting
  - e. details of proposed means of dust suppression
  - f. details of equipment/plant noise suppression
  - g. full piling details
  - h. details of measures to prevent mud from vehicles leaving the site during construction including wheel washing facilities and their management
  - i. details of deliveries times to the site during construction phase
  - j. details of provision to ensure pedestrian and cycle safety
  - k. programme of works (including measures for traffic management and operating hours and hours of construction)
  - l. parking and turning for vehicles of site personnel, operatives and visitors
  - m. loading and unloading of plant and materials
  - n. storage of plant and materials
  - o. maintain a register of complaints and record of actions taken to deal with such complaints at the site office as specified in the Plan throughout the construction period.
16. Before the development hereby permitted is commenced a Construction Environmental Management Plan (CEMP) shall have been submitted to and approved in writing by the Local Planning Authority. Construction of the development shall not be carried out other than in accordance with the approved Plan. No burning shall take place on site during the site clearance/demolition or construction phases of the development.

The CEMP shall include the following:

- a. Risk assessment of potentially damaging construction activities.
- b. Identification of "biodiversity protection zones".
- c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d. The location and timing of sensitive works to avoid harm to biodiversity features.
- e. The times during construction when specialist ecologists need to be present on site to oversee works.
- f. Responsible persons and lines of communication.
- g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h. Use of protective fences, exclusion barriers and warning signs.
- i. Containment, control and removal of any Invasive non-native species present on site.



The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

### **Communication Strategy**

17. Prior to the commencement of development, a communications strategy for notifying nearby neighbouring properties and Thurston Parish Council of the proposed building programme shall be submitted to and approved in writing by the Local Planning Authority. Neighbouring properties and Thurston Parish Council shall then be communicated with in accordance with the approved strategy.

### **PRIOR TO OCCUPATION/SLAB OR OTHER STAGE CONDITIONS**

#### **Highways**

18. No dwelling shall be occupied until the carriageways and footways serving that dwelling have been constructed to at least Binder course level or better in accordance with the approved details except with the written agreement of the Local Planning Authority in consultation with the Local Highway Authority.
19. Within one month of the first occupation of any dwelling, the occupiers of each of the dwellings shall be provided with a Residents Travel Pack (RTP). Not less than 3 months prior to the first occupation of any dwelling, the contents of the RTP shall be submitted to and approved in writing by the Local Planning Authority and shall include walking, cycling and bus maps, latest relevant bus and rail timetable information, car sharing information, personalised Travel Planning and a multi-modal travel voucher.

#### **Lighting**

20. No external lighting shall be installed until a lighting design scheme for biodiversity has been submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed to clearly demonstrate that areas to be lit will not disturb or prevent bats using their territory. Any external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

#### **Site Infrastructure/Other**

21. No development shall proceed above slab level until details of the provision of fire hydrants for the development, including timetable for installation, have been submitted to and approved in writing by the Local Planning Authority. The fire hydrants shall be installed in accordance with the approved details in their entirety and in accordance with the timetable as may be agreed.
22. No development shall commence above slab level until a scheme for the provision and implementation of water, energy and resource efficiency measures for all properties to be constructed and during the construction period has been

submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include a clear timetable for the implementation of the measures in relation to the occupancy of the development. The scheme shall be constructed and the measures provided and made available for use in accordance with such timetable as may be agreed.

#### **Archaeology: Post Investigation**

23. No dwelling shall be occupied until the site investigation and post investigation assessment has been completed, submitted to, and approved in writing by the Local Planning Authority.

#### **POST OCCUPANCY MONITORING/MANAGEMENT**

##### **Permitted Development**

24. Notwithstanding the provisions of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), vehicular parking spaces and garage units shall be retained for parking purposes.

##### **Drainage**

25. Within 28 days of practical completion of the last dwelling, a Sustainable Drainage System (SuDS) verification report shall be submitted to the local planning authority detailing that the SuDS have been inspected, built and function in accordance with the approved plans. The report shall include details of all SuDS components and piped networks previously approved in writing by the local planning authority for inclusion on the Lead Local Flood Authority's Flood Risk Asset Register.

##### **Ecology/ Biodiversity**

26. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Report No: CSA/4164/01, CSA Environmental July 2019).

#### **APPEARANCES**

FOR THE LOCAL PLANNING AUTHORITY:

Mr T Cosgrove KC appearing  
with Mr J Parker of Counsel

He called

Mr H Bennett

Mr S Stroud MA MRTPI

Associate Director, Litchfields

Strategic and Professional Lead for Development  
Management and Heritage, Mid Suffolk District  
Council

Mr L Barber MRTPI

Strategic Transport and Policy Manager, Suffolk  
County Council

Ms J Whyard MRTPI

Principal Planning Officer, Mid Suffolk County  
Council

Mr N McManus MRICS

Surveyor, Development Contributions, Suffolk  
County Council

FOR THE APPELLANT:

Mr Williams KC

He called

Mr S Carvel MRTPI

Mr B Muirhead CIHT

Mr A Collis MRTPI

Head of Planning, Gladman Developments Ltd

Odyssey

Senior Planner, Gladman Developments Ltd

INTERESTED PERSONS:

Mrs V Waples

Cllr A Davies

Clerk to Thurston Parish Council

Ward Councillor Thurston, Mid Suffolk Council

**Inquiry Documents**

<b>ID1</b>	Appellant's openings
<b>ID2</b>	Council's openings
<b>ID3</b>	Mid Suffolk Case
<b>ID4</b>	Peel Case
<b>ID5</b>	Additional statement from the Parish Council 4 July 2023
<b>ID6</b>	Site Visit itinerary
<b>ID7</b>	Court of Appeal decision -
<b>ID8</b>	Council closings
<b>ID9</b>	Appellant closings