

Appeal Decision

Hearing held on 17 May 2017

Site visit made on 17 May 2017

by S Harley BSc(Hons) MPhil MRTPI ARICS

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

Decision date: 15th June 2017

Appeal Ref: APP/H3510/W/17/3166628

Gymnasium Building, Herringswell Manor, Herringswell, Suffolk IP28 6SW

- 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 Mr Richard Winsborough, City and County Residential Limited against the decision of Forest Heath District Council.
 - The application Ref DC/15/0802/FUL, dated 13 May 2015, was refused by notice dated 7 July 2016.
 - The development proposed is change of use of existing redundant gymnasium building to 15 dwellings (3 x one bedroom apartments, 6 x two bedroom apartments, 6 x three bedroom apartments), residential office unit, new residential gym facility and ancillary works.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of gymnasium building to 15 dwellings (3 x one bedroom apartments, 6 x two bedroom apartments, 6 x three bedroom apartments), residential office unit, new residential gym facility and ancillary works at Gymnasium Building, Herringswell Manor, Herringswell, Suffolk IP28 6SW in accordance with the terms of the application Ref DC/15/0802/FUL, dated 15 May 2015, and subject to the conditions set out in the attached schedule.

Background and Main Issue

2. At the Hearing it was confirmed that a contribution to library facilities is no longer being sought. A Unilateral Undertaking in respect of contributions towards the provision for early years education, primary school education, and bus stop improvements has been provided by the appellant. I shall have regard to this in considering the appeal.
 3. Taking these matters into account I conclude that the main issue for this appeal is whether the conversion to residential as proposed would be appropriate taking account of local and national policies relating to sustainable development, the location of the site including the accessibility of local services, and the character and appearance of the area including the setting of The Manor House listed building.
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Reasons

4. Planning applications and appeals should be determined in accordance with the development plan unless material considerations¹ indicate otherwise. However, the weight to be attached to policies in the development plan, whatever their chronological age², should be according to their degree of consistency with the National Planning Policy Framework (the Framework), which sets out the Government's planning policies and is a material consideration.
5. It was not disputed at the Hearing that the Council considers it can demonstrate a five year deliverable supply of housing land and I have seen no evidence to indicate otherwise.

Sustainable development and the location of the site

6. Policy DM1 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document 2015 (DM Policies) and the Framework contain a presumption in favour of sustainable development. Policy DM5 seeks to protect the countryside from unsustainable development. The Framework identifies social, economic and environmental dimensions to sustainable development. All three dimensions need to be addressed.
7. The site lies outside any settlement boundary defined in the development plan which includes the Forest Heath Local Plan (the Saved LP policies), the Forest Heath Core Strategy 2010 (CS Policies) and the DM Policies. Accordingly the appeal site falls within the countryside for planning policy purposes. Nor would this change under the emerging Forest Heath Core Strategy Single Issue Review or the emerging Site Allocations Local Plan (Submission) and Policies Map Book 2017. Both of these are subject to objections albeit not to the countryside status of the appeal site or the removal of the Herringswell settlement boundary.
8. The proposed development would add fifteen dwellings to the housing stock which is a social benefit whether or not the Council can demonstrate a five year deliverable supply of housing land. The proposal would also provide leisure facilities for residents of The Manor and more residents would add support to the existing community.
9. The Council has identified that in accordance with the Joint Affordable Housing Supplementary Planning Document 2013 the proposal would generate an affordable housing requirement of the equivalent of 0.54 of a dwelling. The proposal would not provide affordable housing and the appellant has submitted evidence to show that the developers' profit would be at the lower end of the acceptable range even without providing affordable housing. The Council considers the other social benefits would outweigh the lack of affordable housing. From the available evidence I see no reason to reach a different conclusion.
10. There would be economic benefits arising from employment during construction, funds from new homes bonus payments and future occupants would be likely to add spending to the local economy. The proposed office

¹ Section 38 of the Planning and Compulsory Purchase Act 2004

²Gladman Developments Limited Appellant and Daventry District Council and The Secretary of State for Communities and Local Government [2016] EWCA Civ 1146

- would provide facilities for local residents without travelling by private vehicle. A vacant building would be brought into beneficial use.
11. Herringswell Manor is within open countryside some 1.6 km from the nearest small settlement of Herringswell and is surrounded by fields. Herringswell has a very limited range of services including a village hall and a church and there is a bus stop at the Memorial Junction. Red Lodge which is identified as a key service centre is some 4.35 km away. Further afield Mildenhall, Bury St Edmunds and Newmarket offer more services.
 12. It was agreed at the Hearing that residents would be likely to rely on the private car for most day to day facilities and services and the nearby road network is narrow and rural in nature, unlit, with no footways and the speed limit is 60mph. Third parties have raised concerns about the extra traffic on these narrow roads. However, the Highway Authority has raised no objections and I see no reason to suppose that future occupants of the proposed dwellings would be likely to drive unsafely. Moreover, the Highway Authority could consider introducing lower speed limits if that was considered necessary. Accordingly I do not find significant conflict with Policy DM33(f) in respect of traffic or road safety.
 13. For the reasons set out above the appeal site could not be described as well located in terms of accessibility to local services. Nevertheless the site cannot be described as isolated as there are 52 dwellings within The Manor itself and more dwellings in the row of Manor Farm Cottages opposite The Manor gateway.
 14. With regard to the countryside, policies in the development plan accord with those principles of Paragraphs 17 and 55 of the Framework that recognise its intrinsic character and beauty whilst supporting thriving rural communities within it. Policies DM28 and DM33 both make, overlapping, provision for the conversion of redundant or disused barns or other buildings in the countryside subject to certain criteria. Policy DM28 refers specifically to residential use whereas DM33 also provides for other uses. It is agreed between the parties, and was identified by a colleague Inspector in relation to a proposal in 2010³, that alternative uses for the gymnasium have been explored and legitimately found to be unviable or unsuitable in planning terms. I see no reason to disagree and on this basis the proposal would satisfy Policy DM28(a).
 15. For conversions both Policies DM28(b) and DM33(a) require that "*the building is structurally sound and capable of conversion without the need for extension, significant alteration or reconstruction*". It has been put to me that the literal interpretation of these Policies means that, if it could be demonstrated that the building itself is structurally sound and capable of conversion, then the criteria of "*without the need for extension, significant alteration or reconstruction*" does not have to come into play in relation to the specific proposal being considered.
 16. It seems to me that such an interpretation, if it were correct, would undermine the intent of these Policies as a whole and I give this matter little weight in my consideration of the appeal before me. I also note that a criterion along these lines is typically included in local plan policies for conversion of buildings in the countryside whether or not they are of architectural merit.

³ Appeal Ref: APP/H3510/A/10/2122567

17. The gymnasium is a large rectangular steel portal framed structure of 5 bays. The walls are part cavity brickwork with piers, part cladding and part glazed. The south elevation has high level windows. It is primarily a single storey open space but over part there is a pre-cast concrete mezzanine floor and enclosed squash courts, kitchen and other facilities. Although in the decision notice the Council states that the structural framework does not appear substantial enough it was agreed at the Hearing that the existing building is structurally sound. In that respect the proposal would not conflict with the first part of Policies DM28(b) and DM33(a).
18. The re-use of the building would be an environmental benefit. The proposed works include:
- The removal of the central part of the roof, partial retention/adjustment of existing steel trusses, new columns and trusses. The removed steel would be re-used in forming supports.
 - The first floor ceiling would be kept but made shorter with new supports. About 85.7%⁴ of the first floor slab would be retained.
 - New internal walls and floors and stairwells.
 - The retained walls and roof 68.99% and 42.62% respectively⁵ would be re-clad.
 - The existing ground floor concrete slab would be retained with about 78.94% excavated to make space for soft landscaping within the new courtyard.
19. No extensions are proposed. Rather the overall volume of the building envelope would be reduced. The appellant says that as much of the existing fabric as practicable would be reused⁶. However, it seems to me that the extent of alterations proposed would be significant and, at least in part, would amount to reconstruction. Accordingly I conclude that the proposal would conflict in part with the requirements of Policies DM28(b) and DM33(a).

Character and appearance and effect on the setting of The Manor House Listed Building

20. Policy DM 28(c) requires high quality design which retains the character and historic interest of the building. The former gymnasium building is part of the much larger complex of Herringswell Manor. The Manor House is Grade II listed. It was built in 1905 as a large country house replacing an older building which had been burned down and is in the Tudorbethan style. Subsequently it became the Neo Sannyas Commune and then was in use as a Japanese Boarding School. The gymnasium was built in the late 1980s and there is a large plaque set in the front elevation identifying it with the former Shi Tannoji School.
21. The gymnasium is large with a utilitarian appearance. The proposed development would remove the central part of the building to create a U shape around a central courtyard. The end wall facing The Manor House would be removed and two narrower gable ends would be constructed to either side of

⁴ Design and Access Statement Paragraph 7.2

⁵ Design and Access Statement Paragraph 7.2

⁶ Design and Access Statement April 2015 Paragraph 7.1

- the entrance to the proposed courtyard. These changes together with the cut outs of the walls/roof above ground floor level would reduce the apparent bulk of the building and the courtyard opening would make the front elevation less imposing.
22. The walls and roof, whether retained or constructed, would be given vertical oak cladding and there would be zinc cladding around the retained brick piers. The zinc roof would help it blend with the sky. The proposed conversion and re-modelling would result in a building of high quality design and standard and the proposed materials would help the building relate to its context. I therefore conclude that there would be no conflict with Policy DM28(c).
23. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (The Act) requires me to pay special regard to the desirability of preserving a building or its setting or any features of special architectural or historic interest which it possesses.
24. The setting of Herringswell Manor is parkland with an eclectic mix of buildings, arising from its history and as subsequently transformed when these were converted into dwellings. The gymnasium is close to the main drive and is the sole remaining building which has not been converted for residential use. There would be no physical changes to the Listed Building itself.
25. The gymnasium is directly opposite The Manor House but is separated from it by an expanse of lawn with trees. Although each building can be seen from positions close to the other, views of both together are very limited. The proposal would reduce the scale of the gymnasium building and the break in the front elevation would reduce its perceived scale. To this extent the proposal would reduce the impact on the setting of The Manor House.
26. The proposed design and materials make a strong architectural statement. However, due to the distances between the buildings this would not detract from or overly compete with The Manor House, which itself is of a strong and pronounced design. Moreover, the proposed alterations would result in the gymnasium building more appropriately fitting in with the other buildings within The Manor than it does at present.
27. There could be lights showing during the hours of darkness from windows at ground, first and second floors. However, the effects of these should be off set by the light that could spill from the existing extensive glazed areas of the building were it to be used in its current form. The proposed garden areas would change the immediate woodland setting particularly outside the south and east elevations. Some trees would be removed but these are not of best quality and parts of some of the gardens would be in currently open areas. The gardens would remain in a woodland setting surrounded by trees and additional planting could be secured by planning condition. A woodland management plan could make provision for managing future pressure for removal of more trees. The proposed gardens, including those within the courtyard, and the balconies would provide appropriate external amenity space for occupants of the proposed dwellings.
28. Neither the gardens nor the extensions to the existing parking area adjoining the eastern elevation would have a noticeable impact on the setting of The Manor House or on the overall woodland setting of the gymnasium. The amended proposal, which omits gardens on the western side of the

gymnasium, means that any effect on the woodland setting along the drive would be relatively small. On balance for the above reasons I conclude that the proposal would have a neutral impact on the setting of The Manor House and would therefore cause no harm. The gymnasium cannot be seen from the public realm so the proposal would have no effect on the appearance of the wider countryside. Accordingly I conclude that the proposal would not conflict with Policies DM28(d) or DM33(b).

29. Policy DM28 states that not all new buildings are suitable for conversion perhaps due to their unsuitable or unsustainable location, their condition, appearance or design, perhaps erected before planning controls existed. It goes on to say that if converted into an alternative use without any significant and appropriate enhancement of the structure such buildings would be retained as intrusive features in the landscape in conflict with the aim of conserving and enhancing the rural environment. The gymnasium was considered appropriate for retention in the countryside by the Council as permission was granted for its re-use by residents of Herringswell and The Manor Ref F/2005/01999/COU. The proposed design would be of high quality and would enhance its appearance. Given its secluded location it is not intrusive in the wider countryside.

Other considerations

30. Suffolk County Council advise that there would be a demand for early years education and primary school education places should the proposed dwellings be occupied by families with children. Contributions of £17,538 and £32,858 respectively are sought towards such places which would be provided at Red Lodge. A contribution of £4,000 is also sought to improve bus stop facilities at the Memorial Junction to encourage travel by means other than the private car. A Unilateral Undertaken under s106 of the Town and Country Planning Act 1990 makes provision for these contributions. I am satisfied that they would be justified in line with Policy CS13 and Saved LP Policy 14.1 and would satisfy the tests in the Community Infrastructure Levy (CIL) Regulations.
31. The Chairman of the Herringswell Village Hall has requested a contribution to the Village Hall. However, no detailed evidence has been provided about the likely costs or how necessary this would be to enable the proposed development to go ahead. Accordingly I cannot conclude that such a contribution would satisfy the CIL Regulations.
32. Residents have expressed concerns that the proposed level of parking spaces would be insufficient given the existing demand for parking. The Council confirmed at the Hearing that the level of proposed parking would more than adequately meet the required standards. I am satisfied that sufficient parking spaces could be provided but the submitted plans are inconsistent. This could be addressed by condition for the submission of a revised parking scheme.
33. Herringswell Parish Council and local residents have raised concerns about drainage. However, Anglian Water raises no objections subject to the provision and implementation of a foul water strategy which could be secured by way of a planning condition.

The evidence indicates that fibre broadband is unlikely to be available given the distance from the Kentford exchange and cabinet 8 which could reduce the benefits to local residents of using the proposed office. The appellant suggested at the Hearing that satellite broadband might be a possibility although I was

told that erecting a satellite is prohibited by covenant. However, there may well be ways in which provision could be made for satisfactory broadband.

Planning Balance and Overall Conclusion

34. Planning policies can pull in different directions. The proposed development would satisfy some development plan policies but would conflict with others.
35. I have found that the proposed development would provide significant social benefits in increasing the supply of market housing even though the Council can demonstrate a five year supply of housing land and whether or not there is a particular identified local housing need or whether residential development takes place at Mildenhall Base. Leisure facilities and office space would be provided for existing and future occupants of The Manor. There would be economic benefits in the supply of jobs during construction, increased local spending and new homes bonus payments. There would be environmental benefits from the re-use of a vacant building, from high quality design, and additional planting. There would be no adverse effect on the setting of The Manor House or the wider countryside and the proposed dwellings would not be isolated from other dwellings.
36. On the other hand the site is not well located in respect of accessibility to local services and future occupants would be likely to rely on the private vehicle for most day to day needs. There would be additional vehicles on the surrounding rural road network where there are no street lights or footpaths and where the speed limit is 60mph. There would be no provision for affordable housing.
37. I have concluded that significant alteration or reconstruction would be required so there would be conflict with part of Policies DM28(b) and DM33(a). These Policies do not define "significant" and some lesser amount of alteration or reconstruction would comply. In this case I conclude, on balance, that the extent of the proposed alteration and reconstruction provides benefits by way of reducing the overall mass, improving the appearance of the building, and providing amenity space for future occupants. I acknowledge that local residents are in favour of the re-use of the building but would prefer a smaller number of dwellings. However, on the balance of probabilities it seems unlikely that it would be financially viable to achieve the quality of design proposed or to make the necessary contributions to education and public transport with a significantly lesser number of dwellings. I also recognise that the 2010 appeal was dismissed. However that appeal was for 24 dwellings, significantly more than the number now proposed.
38. On balance I conclude that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits when assessed against the development plan taken as a whole or the Framework taken as a whole. Whilst not well located in relation to access to services I conclude that, overall, the proposal would be sustainable development and that the conversion to residential as proposed would not be inappropriate. For the reasons set out above, and taking into account all other relevant matters raised, I conclude the appeal should succeed.

Conditions

39. I have considered the conditions proposed by the parties in the light of the Framework and the National Planning Practice Guidance (the PPG). As well as

the standard condition specifying the time limit for commencement of development, compliance with the approved plans, and subsequently approved details are necessary to provide certainty.

40. Conditions requiring the submission of details of materials and external lighting are necessary and reasonable in the interests of the appearance of the area, the living conditions of occupiers of nearby properties and the ecology of the area. Details of landscape, ecological enhancement and maintenance, and routing of construction traffic are required in the interests of amenity and biodiversity.
41. Approval of a foul water strategy and the provision of storage for refuse/recycling bins are required in the interests of public health and safety. A construction environmental method statement, control over the hours of demolition and construction and over the installation of extraction, refrigeration and air condition systems are required to prevent undue disturbance to residents.
42. A scheme for the provision of parking and access is required as the submitted plans are inconsistent and to ensure adequate parking and access is made available. The provision of visibility splays is necessary in the interests of highway safety. The restrictions on use of the gymnasium and office hereby permitted and the supply of appropriate broadband are necessary to reduce vehicle travel to the site and in the interests of the amenity of future occupants of the proposed dwellings. The retention of the commemorative plaque is necessary in the interests of preserving the historic character of Herringswell Manor.
43. The PPG says that conditions removing permitted development rights⁷ should only be used in exceptional circumstances. I see justification for such a condition in the present case to protect the parkland setting.

SHarley

INSPECTOR

Schedule of Conditions APP/H3510/W/17/3166628

Gymnasium Building, Herringswell Manor, Herringswell, Suffolk IP28 6SW

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted, with the exception of parking (see condition 9 below) shall be carried out in accordance with the following approved plans: 7843 000 rev A01; 7843 004 rev A06; 7843 002 rev A03; 7843 A80 rev A06; 7843 005 rev A01; 7843 Plan 051 A05; 7843 052 rev A02; 7843 SK070 Rev A03; 7843 006 A00 and 4219 Rev B.
- 3) Prior to their first use in the development, samples of the external materials to be used 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.

⁷ Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

- 4) No development shall commence until a foul water strategy has been submitted to and approved in writing by the local planning authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy.
- 5) Prior to the commencement of development a construction environmental method statement should be submitted to and approved in writing by the local planning authority including measures to safeguard Cherry Hill and The Gallops, Barton Mills SSSI from potential damage caused by construction traffic to the road verges which form a part of the SSSI. The method statement must include a pre-agreed route for construction traffic which avoids the SSSI roads. The development shall be carried out in accordance with the approved statement.
- 6) The site demolition, preparation and construction works shall be carried out between the hours of 08:00 to 18:00 Mondays to Fridays and between the hours of 08:00 to 13:30 on Saturdays and at no time on Sundays or Bank Holidays without the prior written consent of the local planning authority.
- 7) No external lighting shall be installed until details have first been submitted to and approved in writing by the local planning authority. The development shall then be constructed and retained in accordance with the approved details.
- 8) No extraction, refrigeration or air conditioning systems to serve the gym and office shall be installed until details have first been submitted to and approved in writing by the local planning authority. The development shall then be constructed and maintained in accordance with the approved details.
- 9) Notwithstanding the details shown on the submitted plans prior to the occupation of any part of the development hereby permitted a scheme for the provision of parking of vehicles and secure cycle storage and the re-opening of the former access to the North Courtyard shall be submitted to and approved in writing by the local planning authority and provided in accordance with the approved details. These areas shall be retained thereafter for these purposes and used for no other purpose.
- 10) No part of the development hereby approved shall be occupied until clear visibility at a height of 0.6 metres above the carriageway level has been provided between the nearside edge of the metalled carriageway of Herringswell Road and a line 2.4 metres from the nearside edge of the metalled carriageway at the centre line of the access point (X dimension) and a distance of 160 metres in each direction along the edge of the metalled carriageway from the centre of the access (Y dimension). Such visibility shall thereafter be permanently maintained. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) (England) 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.
- 11) The areas to be provided for storage of refuse/recycling bins as shown on drawing number 7843 002 A03 shall be provided in their entirety before the development is brought into use and shall be retained thereafter for such purposes and used for no other purpose.

- 12) Prior to the commencement of development, details of landscape and ecological enhancement shall be provided in accordance with section 4 of the Preliminary Ecological Appraisal Building Assessment for Bats March 2017; the Herringswell Gym–Bat Report and the Further Recommendations Letter 21 April 2017. For the avoidance of doubt these details shall include a woodland management and enhancement plan incorporating recommendations from the Tree Survey, Arboricultural Impact assessment, Method Statement and Tree Protection Plan Rev A 23 December 2015, a proposed soft and hard landscaping plan, an ecological enhancement strategy and a future maintenance scheme. The development shall be completed in accordance with the approved details and retained thereafter.
- 13) The gym and the office hereby approved shall be used solely in conjunction with the existing and hereby permitted residential development at Herringswell Manor.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking and re-enacting that Order) no development permitted under Part 1 Classes A, B, C, D, E and F of Schedule 2 to the Order shall be erected/carried out within the site other than any expressly authorised by this permission.
- 15) Prior to the occupation of any part of the development hereby permitted a strategy to facilitate broadband for future occupants of the site, including a timetable for implementation shall be submitted to and approved in writing by the local planning authority. The development shall be constructed and retained in accordance with the approved strategy.
- 16) No development shall commence until a scheme detailing the re-use of the commemorative plaque on the west elevation of the building has been submitted to and approved in writing by the local planning authority. The re-use of the plaque shall be implemented and retained in accordance with the approved scheme, prior to first occupation of the development.

End of Schedule

APPEARANCES

FOR THE APPELLANT:

Samuel Bampton

David Fletcher

Edward Morton

City and County Residential Limited,
appellant

Strutt and Parker Agent

Morton Partnership Structural Engineer

FOR THE LOCAL PLANNING AUTHORITY:

Charles Judson

Ann- Marie Howell

Matthew Gee

Principal Planning Officer

Principal Planning Officer (Policy)

Planning Officer

INTERESTED PERSONS:

Peter Freer

Philip Ellick

David Macnaghten

Mrs Macnaghten

Liz Marchington

Suffolk County Council

Resident

Resident

Resident

Herringswell Parish Council

DOCUMENTS Submitted at or after the Hearing

- 1 Signed Unilateral Undertaking submitted by the appellant
- 2 Revised Draft Conditions agreed between the parties
- 3 Representations Anglian Water submitted by the Council
- 4 Bundle of 8 representations to Policy SA1 - Settlement Boundaries –
Proposed Submission Site Allocations Local Plan submitted by the Council
- 5 Email correspondence concerning broadband submitted by Mr Ellick

Plans submitted for the appeal

Annotated existing elevations and cross section A0 size plans Ref 7843 040

Rev A01;7843 030 Rev A01 and 7843 010 Rev A01