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## Appeal Decisions

Hearing Held on 12-13 February 2019

Site visit made on 13 February 2019

**by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC**

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

**Decision date: 14<sup>th</sup> May 2019**

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### **Appeal A Ref: APP/W3520/W/18/3201951**

#### **Land North of Old Stowmarket Road, Woolpit, Suffolk, IP30 9QS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Nicholas Fairman, New Hall Properties (Eastern) Ltd against the decision of Mid Suffolk District Council.
  - The application Ref4489/16, dated 2 November 2016, was refused by notice dated 17 April 2018.
  - The development proposed is outline application with all matters reserved except for access for the erection of up to 79 dwellings on land north of Old Stowmarket Road, Woolpit.
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### **Appeal B Ref: APP/W3520/W/18/3201949**

#### **Land North of Old Stowmarket Road, Woolpit, Suffolk, IP30 9QS**

- 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 Nicholas Fairman New Hall Properties (Eastern) Ltd against the decision of Mid Suffolk District Council.
  - The application Ref 4491/16, dated 2 November 2016, was refused by notice dated 17 April 2018.
  - The development proposed is the change of use from agriculture to open space including a surface water management scheme and wildlife enhancement area.
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### **Decision – Appeal A**

1. The appeal is dismissed.

### **Decision – Appeal B**

2. The appeal is dismissed.

### **Procedural Matters**

3. Appeal A is for outline consent for up to 79 dwellings and appeal B is for full planning permission for open space. The sites are adjacent to each other within a single agricultural field and the proposed developments are interrelated. Accordingly, I have dealt with these appeals together.
4. At the Hearing, a copy of the Pre-Submission Draft Woolpit Neighbourhood Plan 2016-2036 (NP) was submitted, along with copies of supporting evidence including the Local Green Space Appraisal and Landscape Appraisal. It was

established that the NP remains at an early stage in the process which limits the weight I can attach to the NP and associated documents.

5. The National Planning Policy Framework (the Framework) was updated in July 2018 and then again following the close of the Hearing on the 19<sup>th</sup> February 2019 a further updated revised Framework was also published, along with a number of other documents relating to housing delivery and housing need. The submitted Statement of Common Ground between the Council and the Appellant, dated 29 January 2019, made reference to the 2012 version of the Framework. At the Hearing parties established the correct paragraphs of the 2018 Framework which was subsequently confirmed in writing. After the Hearing parties were also given a further opportunity to comment on the 2019 amendments.
6. Following the close of the Hearing, the appellant submitted a signed Unilateral Undertaking (UU) dated 1<sup>st</sup> March 2019 which was amended from a submitted UU dated 8<sup>th</sup> February. The updated UU relates to affordable housing, the open space, early years education and primary education contributions, footway/cycleway link and public rights of way. This was revised due to factual errors within the original document as well as amendments in respect of open space and affordable housing clauses. For the avoidance of doubt, in my determination of both of the appeals, I have had regard to the updated UU, the detailed provisions of which are considered below and the first UU dated 8<sup>th</sup> February is superseded as per section 17.1 of the document.

## **Main Issues**

7. The main issues are the effect of the proposed developments upon:
  - (a) the significance of heritage assets and their setting including:
    - i) Lady's Well (Holy Well and Moat) Scheduled Monument – including direct physical impacts (Appeal B) and impacts relating to setting (Appeals A and B)
    - ii) Grade I Listed Church of St Mary (Appeal A)
    - iii) Woolpit Conservation Area (Appeal A)
  - (b) the character and appearance of the area with specific regard to the amount and density of development (Appeal A)
  - (c) whether the proposed housing would provide satisfactory living conditions for future occupants in terms of noise and disturbance (Appeal A)

## **Reasons**

### *Site Description*

8. The appeal sites comprise of an open arable agricultural field which is broadly rectangular in shape. The sites are bounded by Old Stowmarket Road to the south and Heath Road (also referred to as the A14 link Road) to the west. To the east in a plant nursery 'Woolpit Nurseries' and the north is the 'Goldstar Transport Ltd' site which is a container storage and distribution depot.
9. To the north-west corner of the site (but outside of the site boundaries) is a scheduled monument called Lady's Well. The scheduled monument and part of the appeal site also fall within the boundary of the Woolpit Conservation Area

(CA), which runs through the site in a north-south direction, broadly in line with the site boundary between Appeal A and Appeal B.

10. Opposite the site to the south is a small modern housing estate along Saffrons Close and further open fields on which outline consent has been granted for 120 dwellings, along with associated car parking for Woolpit Health Centre and improvements to the junction of Heath Road and Old Stowmarket Road junction.
11. The appeal sites are located outside of the settlement boundary for Woolpit, which is defined as a key service centre within the Mid Suffolk Core Strategy Focused Review 2012 (CSFR) with a wide range of services and facilities. The village centre is located to the west of Heath Road.

### *Heritage Assets*

#### *Scheduled Monument - significance*

12. The Lady's Well (holy well and moat) Scheduled Monument comprises of a moat partially enclosing a moat island with central moat arm. This is partially water filled. A spring is located to the south side which has been brick lined and covered. This is thought to be the site of a holy well.
13. Lady's Well was first designated in 1978, however no formal description is recorded in the list entry by Historic England. The submitted Heritage Statement provides an old description which notes that the well was associated with a popular pilgrimage to a shrine at the Church of St Mary and there was said to be a chapel adjacent to the well. The site contains a number of mature trees along with scrub vegetation and is publicly accessible from Heath Road with informal footpaths around the monument and an interpretation board giving a brief history of the site.
14. The date and origins of Lady's Well moated site are unknown and its significance is extensively debated, particular in respect of the presence of a chapel at the site and pre-Reformation pilgrimage to the well, primarily based on research by Clive Paine, published in 1993.
15. In general, moated sites enclosed islands of dry ground on which stood domestic or religious buildings which were typically prestigious. The earliest reference to the monument and well was contained in a manorial extent survey dated 1573-1576. Springs and wells have also been ritually significant since prehistoric times and became popular for pilgrims in the medieval period. The spring at Lady's Well is historically believed to have healing properties, particularly in respect of eye conditions, with written accounts of such a use dating from the early 19<sup>th</sup> Century.
16. Historically the monument was located outside of the village surrounded by agricultural lands. These are depicted on the 1845 tithe map as 'Little Palgraves' to the north, 'Lady's Well Field' to the south and 'Great Palgraves' to the east, the latter 2 which form the appeal sites. As set out in the evidence before me, it is believed that the names of these fields are related to the lands being held until 1548 by the Chapel of St John the Baptist at Palgrave, near Diss.
17. Around 200m to the west of the monument are the Grade I Listed Church of St Mary, a Perpendicular Church with 14<sup>th</sup> Century south aisle and chancel and

- tower and spire dating from the 1854 as well as a Grade II listed Old Rectory dating from the 16<sup>th</sup> Century. The appeal sites formed Glebe Land and the Grade I Listed Church of St Mary, along with the Grade II listed Old Rectory would have enjoyed intervisibility across the open land between these sites, as evidenced by the historic maps.
18. The second half of the 20<sup>th</sup> Century saw the setting of the Lady's Well evolve, through the development of the glebe land between the monument and the Church for housing, the construction of the A14 link Road and the development of the Goldstar site in 1984 as well as the plant nurseries. The link road in particular physically separated the monument from the Rectory and Church.
  19. The appellants, in their Heritage Statement, consider that the site is not a chapel or place of pilgrimage and that the setting of the monument has been diminished during the 20<sup>th</sup> century. It is held that it would be appropriate for the scheduled status to be reviewed or the description to be revised. It was, however, accepted at the Hearing that the site is nationally significant and warrants protection.
  20. The National Planning Policy Framework (the Framework) notes that scheduled monuments are assets of the highest significance. Great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be. Based upon the evidence before me, it would appear likely the shrine at the Chapel of Our Lady of Woolpit which was the focus of pilgrimage was located at St Mary's Church, and not at the monument. However, this in itself does not disprove that there was a separate chapel at Lady's Well nor that the moated site and the well was used as part of this pilgrimage in the pre-Reformation period. The use of the well for health benefits in early times may be more difficult to evidence, but in any case the use of this for such purposes during the 19<sup>th</sup> (and potentially the 18<sup>th</sup>) centuries is well documented.
  21. Evidence presented, including research by local residents, does call into question the conclusions reached by Paine, and in turn the conclusions reached in the Heritage Statement and Desk Based Assessment, which are largely focussed on this work. This relates particularly to the pre-Reformation value and use of the well and the potential for the Lady's Well to have accommodated a separate chapel, including the Chapel of Palgrave.
  22. In light of the above, there is a need to advance the understanding of Lady's Well. However, based upon the information before me, I consider that the significance of the monument relates to its archaeological interest in terms of the moat earthworks and the moat island with a great potential for buried remains and palaeo-environmental deposits. The spring as a supply to the moat and well also contribute to its archaeological interest. Although less well evidenced, the historic interest of the site should not be underestimated in terms of medieval post-medieval associations and its terms of its relationship with the Church and Rectory as Glebe land. There are also substantial communal values from the well, the potential chapel and local folklore, and certainly as expressed by residents at the Hearing the Woolpit community today places much value on the heritage asset.
  23. The Framework defines setting as "*the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative*

*contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral."*

24. In terms of the contribution of setting to significance, historically the monument was in a relatively isolated location from the historic core of the village, surrounded by open agricultural lands. This open landscape setting has been eroded to the north and east by built developments, as well as to the west, from the development of the road and intervening small scale housing development between the Church and Rectory and the monument. In this regard, the open field to the south of the monument to which the appeal sites relate, makes a positive contribution its setting, allowing the monument to be experienced in its original context along the historic route along Old Stowmarket Road to Woolpit.

*Scheduled Monument – direct effects*

25. While the monument is excluded from the site boundaries of the appeal sites, due to the nature of the proposed development, there is potential for direct physical impacts upon this asset. This is with regard to the proposed drainage strategy for the housing site (appeal A) and the associated creation of drainage ponds within the proposed open space (appeal B).
26. The drainage strategy would comprise of surface water discharge to an existing drainage ditch along Heath Road. This ditch is located to the west of the scheduled monument, running northwards from this towards to the Goldstar Site. A total of 4 drainage ponds would also be created within the open space site, including a reasonably large pond adjacent to the boundary with Lady's Well. Foul drainage would be connected to an existing sewer at manhole 5701 which, as depicted in the original study, is adjacent to the monument, within Heath Road. Concern was raised by the Council as well as by Historic England in respect of potential hydrological impacts on the monument from the proposed drainage.
27. The moat is fed primarily from the spring, and while the original Flood Risk Assessment and Sustainable Drainage Strategy (dated October 2016) identified that surface water ran into the drain via the scheduled monument, following infiltration testing, the Addendum to this document (dated June 2018) states that there is only limited surface water discharge from the appeal sites into the monument, although it is recognised that some discharge will occur during prolonged wet periods and extreme rainfall events. The Addendum concludes that there will be no impact from groundwater or the underlying aquifer and as a result from the spring to Lady's Well would not be impacted by the proposed development.
28. This is a complex and technical area and in light of the scale of the proposed housing development, the proximity of the monument, its significance and the potential for palaeo-environmental deposits, I consider that Lady's Well is particularly sensitive to hydrological effects. The Addendum does offer some comfort in this regard, but as established at the Hearing, this assessment was not undertaken with any specialist archaeological input. While Historic England were not involved with the appeal, this cannot be assumed as tacit agreement to the contents of the Addendum and the lack of effects.
29. Added to this there is a lack of a detailed magnetometer survey and geophysical survey of the open space site. This could have given further

- evidence in terms of the monument and its relationship with the land to the south, particularly as this would be dug up to create the drainage ponds.
30. I also have concerns in respect of the drainage ditch to be used for surface water drainage given its location away from the site with the monument effectively between the site and this ditch. Similarly, the foul water drainage may necessitate a new sewer to be constructed and the location of this is currently unknown.
31. The Framework is clear that sufficient detail, proportionate to the assets' importance should be submitted to understand the potential impacts of the proposal upon significance. There are substantial question marks relating to the potential direct effects on the monument and without any detailed archaeological expertise/peer review, I cannot be certain that the monument would not be affected. Certainly, there was very little detailed oral evidence given at the Hearing to provide any comfort.
32. It has been suggested that specific drainage matters could be dealt with by conditions in terms of detailed design, further hydrological assessments and other related matters. However, as a scheduled monument is of the highest significance and given the complex and technical nature of its hydrology and the interaction of the sites, in the absence of detailed evidence to suggest otherwise, there is significant risk that Lady's Well could be directly affected or harmed by the development. As such I consider that a precautionary approach is justified.
33. I note that Suffolk Wildlife Trust stated that the new ponds should not impact on the water availability of Lady's Well due to the presence of great crested newts and were satisfied that ecological enhancements could be secured by condition but this does not change my view on this in light of my findings on heritage assets.
34. There is also a conflict between the outline nature of the housing application and the relationship to the full application for the open space and drainage ponds as it was established at the Hearing the precise details may change, dependant on the final design and layout of the proposed housing. This could affect the size of the ponds, amongst other matters, yet the full application would not have the flexibility to make significant amendments to the approved plans. This adds to my view that it would not be appropriate to resolve these matters by condition.

#### *Scheduled Monument – setting*

35. In terms of the setting of the monument, there can be no doubt that this has evolved over time and that neighbouring developments including the road and built developments, including to the north at Goldstar have changed the setting and have had an adverse effect upon Lady's Well.
36. That said, Historic England guidance<sup>1</sup> recognises that where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, consideration should be given to whether additional change will further detract from, or can enhance, the significance of the asset. Negative change could include severing the last link between an

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<sup>1</sup> Historic Environment Good Practice Advice in Planning Note 3 (Second Edition): The Setting of Heritage Assets



asset and its original setting; positive changes could include restoration of landscape, or screening of intrusive developments.

37. There is a clear relationship between the appeal sites and the monument, with the appeal sites providing views from the monument into the remaining open agricultural space. The development of the appeal sites would permanently erode the last remaining part of the open and agricultural landscape of the monument and the separation from the village.
38. I accept that the form of the monument is relatively sheltered due to the tree coverage within the site, however in views from Old Stowmarket Road and travelling north along Health Road I consider that, to an unsuspecting visitor to the area, the trees act to indicate the presence of an unusual landscape feature, thus given a prominence of the monument within this open setting.
39. The housing development in particular, while it would be for up to 79 dwellings and layout and design are reserved matters, the indicative site plans do depict a modern suburban estate of a reasonably high level of development which would effectively 'crowd' the monument to the east. The emulation of the historic field boundaries within the development is lost and unsuccessful in terms of the development of this open site.
40. The development of housing and the introduction of a more formal open space as a managed meadow with the attenuation ponds would introduce urban features into this area and new dwellings would appear intrusive by introducing substantial built form and residential activity in this location. The open space would assist in retaining longer views from Old Stowmarket Road as the historic approach into the village, but the character of this would be changed from arable land to a wildflower meadow and would not counter this effect to any great degree.
41. While the monument is affected by road noise and from the Goldstar site, as I was able to experience at my site visit, a degree of tranquillity currently exists within Lady's Well and given the proximity of development, this would be all but lost as a result of the scheme.
42. These effects would be further compounded by the drainage proposals and acoustic mitigation measures. Noise mitigation proposals include the erection of a 3m high acoustic fence along the northern boundary of the site in proximity to the monument. While this would have a screening effect of the Goldstar site, given its height and proposed location, I consider it would be an overly dominant and incongruous built feature which would further disrupt the setting of the monument.
43. In addition, the land levels within the sites falls in a north-westerly direction towards the monument from levels of over 62m above Ordnance Datum to around 57m. The proposed drainage strategy would necessitate the reprofiling of the land to the north west of the site, close to the monument as depicted in appendix 7 of the Sustainable Drainage Strategy, which would incorporate an increase in height of at least around 2m. This re-profiling would disrupt the natural landfall towards the monument and would further exacerbate the presence and height of the acoustic fence. This would add to the crowding effect on the monument from the proposed development. The Heritage Statement, which provides an assessment of setting, is silent on these matters.

44. Moreover, the provision of ponds to the south of the monument within the open space site, could confuse the understanding of the monument. I appreciate that Lady's Well is a separate site and has a wooded character. Nonetheless, the open space would create a new access route to the monument and the creation of artificial ponds and waterbodies could diminish the understanding of the monument as a moated site. Taking all of the above into consideration, I consider that the setting of the scheduled monument would be harmed.

#### *Listed Building*

45. The Church of St Mary is prominently sited with its tall and imposing spire, making a considerable contribution to the public realm and to the identity to the local community. Its significance is architectural, historic and communal. Because of its presence, it has an extensive setting, extending well beyond the graveyard and its setting is intertwined with that of the monument, due to its historic associations, although intervening developments have changed this. The Church is also visible from the appeal site as I was able to witness at my site inspection.
46. The indicative layout of the housing site and the proposed open space development have considered the Church of St Mary vista, with development being pulled back north of this, so as not to interrupt views of the Church from along Old Stowmarket Road, as a historic route into the village. The would also preserve the more limited views of the Old Rectory. In this regard, the setting of the Church and its landmark spire would be preserved. However, there would be an effect in terms of the historic relationships and significance between these assets and the scheduled monument, due to the loss of this agricultural land for development.

#### *Conservation Area*

47. In terms of the CA, this is a fairly small and tightly defined area, focussed on the historic core of Woolpit, however part of the appeal site and the scheduled monument is incorporated into the boundary as it adds to the setting of the village. The open space site which falls within the CA has been designed in this way in order to reflect the drawing of the boundary.
48. In my view the significance of the CA is derived in part from the intimate feel within the centre, opening out to low density, but modern developments at the village edge, with an agricultural countryside setting beyond. The proposed housing site beyond, but adjacent to the CA would therefore fail to preserve that setting, causing harm to the CA. Moreover, in line with my findings above regarding the open space as a more formal and managed open space with artificially constructed drainage ponds would also have a more urban character than as experienced at present. Consequently, the introduction of the proposed developments would not preserve or enhance the character or appearance of the Woolpit CA.

#### *Heritage Assets - Conclusions*

49. Overall, the developments would cause harm to the significance of the Lady's Well (holy well and moat) scheduled monument, in respect of direct effects and in terms of setting. The proposed development would distance and dislocate Lady's Well from its last remaining open rural, agricultural setting. In addition, the development would cause harm to the CA and the Church and the



relationship of these with the monument, which would alter people's perceptions and experience of the village and these heritage assets.

50. The level of harm to designated heritage assets would be less than substantial in the context of paragraph 196 of the Framework. While the Council and others have sought to quantify that harm on a scale of low, moderate and high, the Framework, local policy and legislation do not provide a particular basis to do so and any harm must attach considerable importance and weight. However, for the avoidance of doubt, I am clear that the harm I have identified relates primarily to the scheduled monument, but that harm is interrelated with the effects on the setting of Church and CA and this should not be downplayed or discounted for these assets.
51. The proposals would be contrary to Policy FC 1.1 of the Mid Suffolk Core Strategy Focussed Review 2012 (CSFR) which sets out the approach to delivering sustainable development and requires that proposals conserve or enhance local character. The development would also conflict with Policy CS5 of the Mid-Suffolk Core Strategy 2008 (CS) which seeks to protect, conserve and where possible enhance the historic environment, including archaeological remains.
52. In accordance with paragraph 193 of the Framework, I give great weight to that harm. I will assess the public benefits of the proposal, following my conclusions of the remaining main issues, as part of the overall heritage and planning balance.

#### *Character and appearance*

53. The introduction of built development would also have an effect on the wider character of the area, in addition to the effects I have identified upon heritage assets. While I recognise that the development is in outline only, in general terms I consider that the density and level of the housing proposed at the site is of a relatively high level which would give rise to a modern suburban character of development at the housing site.
54. This point is illustrated by the indicative layout which depicts the proposed houses in a regimented and formal layout. Larger plots and detached dwellings have been indicated to the western boundary of the appeal site with smaller plots and what appears to be a terrace facing out towards Old Stowmarket Road. As illustrated, dwellings would be bunched together to the north eastern part of the combined sites, as part of attempting to address heritage constraints which gives the appearance of a higher density development. This would give a formal and hard edge between the development and the open space which would be perceptible in a number of views.
55. The layout is not fixed and could be changed at the reserved matters stage, but in light of the amount of development proposed and the site constraints, in reality I consider that changes to the layout or a reduction in the amount of dwellings within the housing site would not be able to avoid this effect in any great degree.
56. To the south of the site, on the opposite side of Old Stowmarket Road, Saffrons Close is a modern housing estate of detached dwellings, but this is much smaller in comparison to the appeal site. I note that the character of this part of the village along Old Stowmarket Road will fundamentally change with the

development of 120 dwellings which, from the site plan presented at the appeal, would also have a suburban layout and form. The appeal proposal could have a similar density to this scheme.

57. Nonetheless, the approved site, being located further along Old Stowmarket Road would appear to be less sensitive to change than the appeal sites and as such this scheme would not justify the appeal proposals before me. There would also be greater scope in terms of layout at this site and as such I am confident that, as developed, the site would not appear as dense as the sites before me.
58. The open character of the housing site is important in the semi-rural character of the village, particularly along the approaches to the village along Heath Road and Old Stowmarket Road. This importance is heightened by the approved development as the extant development with the development proposed before me would cumulatively comprise of a significant eastern extension of the village, with a loss of openness.
59. Overall on this matter, I find harm to the general character and appearance of the area, with specific regard to the amount and density of development proposed. The development would conflict with Policy FC 1.1 of the CSFR which requires that proposals conserve or enhance local character. The development would also conflict with Policy CS5 of the Mid-Suffolk Core Strategy 2008 (CS) which seeks to protect landscape character and secure high quality design that respects local distinctiveness. The development would also conflict with paragraph 127 of the Framework which seeks to ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. The development would not form appropriate innovation or change, including from increased densities.

#### *Noise and Disturbance*

60. The A14, as a major trunk road, is located to the north of, and is audible from, the appeal sites. Goldstar Transport Ltd is a container storage and distribution depot. It shares a boundary with the appeal sites, with staff car parking located directly adjacent to this boundary.
61. The site has operated as a storage and distribution depot since before 1979 and the business has expanded since then. It is a site of around 7 acres and employs 150 staff, with office blocks within the site. The hours of operation are unrestricted at the site and there is currently a 24hr/7days a week operation. Up to a maximum of 5 metal shipping containers are stacked vertically, but again this is unrestricted and is only currently limited to this number by the capacity of the lifting cranes.
62. The Framework is clear that developments should mitigate and reduce to a minimum the potential adverse impacts arising from noise from new development and avoid noise giving rise to significant adverse impacts on health and quality of life. Decisions should integrate effectively with existing businesses and where the operation of an existing business could have a significant adverse effect on new development, suitable mitigation should be provided before the development is completed (paragraphs 182 & 180). The Noise Policy Statement for England (March 2010) sets out 3 aims for the effective management and control of noise which are to avoid significant adverse impacts on health and quality of life; mitigate and minimise adverse

- impacts on health and quality of life; and where possible, contribute to the improvement of health and quality of life.
63. Planning Practice Guidance (PPG) sets out further detailed guidance, including a noise exposure hierarchy which includes Lowest Observed Adverse Effect Level (LOAEL) which is the level above which adverse effects on health and quality of life can be detected whereby mitigation and reduction to a minimum is necessary and Significant Observed Adverse Effect Level (SOAEL) which is the level above which significant adverse effects on health and quality of life occur which should be avoided.<sup>2</sup>
64. Noise effects can be significant, causing harm to human health and wellbeing and can constitute a statutory nuisance which would necessitate enforcement action. It is therefore critical to assess the effects of noise and disturbance upon future occupants at the site.
65. Based upon oral evidence given by the local community, it was clear that while the Goldstar site was recognised as an asset to the local community in terms of benefits relating to employment, there has been a history of noise complaints from the operation at the site from Woolpit residents.
66. I was also made aware that there was an appeal<sup>3</sup> in 2013 for the expansion of the site for the parking of HGV vehicles which examined noise and disturbance issues. In dismissing the appeal, the Inspector was clear that the existing use causes harm to existing residents and the operation of the site.
67. Noise assessments have been provided by both the Council and the appellant, with further submissions received following the close of the appeal, including a more detailed assessment by the appellant against BS4142:2014, following concerns raised by the Council at the Hearing over the use of a different and inappropriate British Standard.
68. There is a dispute between parties regarding the figures to be used to form the LOAEL and SOAEL measurements, with the appellant citing a LOAEL of 46dB L<sub>Ar</sub> and SOAEL of 56dB L<sub>Ar</sub> and the Council citing 45dB L<sub>Ar</sub> and 55dB L<sub>Ar</sub> respectively. This gives a difference of 1dB for each measurement. Notwithstanding this difference, both parties agreed that the SOAEL would be breached at the development site based upon no mitigation being in place along the boundary of the appeal sites with Goldstar.
69. The main area of disagreement between parties is with regard to the erection of a 3m acoustic screen and whether this would result in the noise effects being above (in the case of the Council), or below (in the case of the appellant) the SOAEL. This is important as in accordance with the noise exposure hierarchy, anything above the SOAEL would result in avoidance whereas under the SOAEL would give the potential for mitigation and reduction measures through design and layout of the housing development and the imposition of planning conditions.
70. The differences relate primarily to the level of impulsivity penalties imposed in the calculations with the appellant considering that a penalty of +6dB to be appropriate and the Council a penalty of +9dB. The Council's consultant considers that the operational noise at the Goldstar site is low frequency booms

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<sup>2</sup> Paragraph: 005 Reference ID: 30-005-20140306

<sup>3</sup> APP/W3520/A/13/2195228

and an acoustic screen would reduce the road traffic noise, which would be at a higher frequency. It is said that this would result in the low frequency noise from Goldstar being more noticeable. The Council consider that with the screen, the rating level of noise during busy periods would be 58dB L<sub>Ar</sub>, whereas the appellant considers that this would be 55 dB L<sub>Ar</sub>.

71. Both parties have submitted detailed evidence in support of the respective figures used to calculate these rating levels and both offer persuasive arguments in respect of the basis for their LOAEL and SOAEL values and the impulsivity penalties, the latter of which, as acknowledged by both parties, is a matter of professional judgement.
72. Irrespective of this, even taking the appellant's more favourable calculations, this would only be 1dB below their SOAEL figure. This calculation is also wholly reliant upon a large acoustic screen being in place as mitigation in the first place.
73. I accept that where the impact lies somewhere between LOAEL and SOAEL, all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development and that this does not mean that such adverse effects cannot occur. The appellant considers that reasonable steps could be taken in terms of detailed design matters relating to the layout of habitable rooms, the orientation of dwellings, the installation of high-performance glazing and the layout of the development as a whole. Internal noise levels were also assessed as part of the appellant's submitted noise survey (dated 21 December 2017) in terms of predicted noise levels with windows open and closed in accordance with relevant British Standards.
74. Nonetheless, paragraph 180 of the Framework advises that noise impacts should be mitigated *and reduced to a minimum* [my emphasis] and I am concerned that with the development being at the upper end of the range with a screen in place, other mitigation measures would not, realistically, be able to mitigate the noise levels to any significant degree. Specifically, I share the Council's concerns that the noise effects experienced in the external amenity areas of the proposed dwellings would be particularly harmful to occupants and that there is a lack of detailed information regarding mitigation options in this regard.
75. The PPG<sup>4</sup> is also clear that care should be taken when considering noise mitigation to ensure the envisaged measures do not make for an unsatisfactory development and I am mindful that the erection of a 3m acoustic fence could have other consequences in terms of living conditions, relating to outlook and enclosure. As an outline proposal, I acknowledge that there would be some flexibility in terms of layout and design, but the development proposed is up to 79 dwellings and but based on my findings, I am not persuaded by the principle of development anywhere close to the noise source.
76. To sum up, operations at the Goldstar site are unrestricted, and noise and disturbance effects are already experienced by Woolpit residents who are located at a much greater distance away from the container storage site. I have identified concerns in respect of the mitigation measures, even taking on board the appellant's figures and the lack of objection by environmental health.

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<sup>4</sup> Paragraph: 008 Reference ID: 30-008-20140306

On this basis, I therefore consider that there is a significant risk of harm to future occupants from noise and disturbance and thus the development would not provide satisfactory living conditions. In my view, the development could also compromise the existing business at the Goldstar site and I am mindful that the Framework is clear that existing businesses should not have unreasonable restrictions placed upon them as a result of development permitted after they were established. The development would therefore conflict with CSFR Policy FC1.1 which seeks to deliver sustainable development and paragraphs 180 and 182 of the Framework.

### **Planning and Heritage Balance**

77. Paragraph 196 of the Framework requires that the less than substantial harm to heritage assets which I have identified should be weighed against the public benefits of the proposal.
78. The appellant has put forward a number of benefits in support of the scheme and I acknowledge that the development would provide public benefits in terms of the provision of housing, including affordable housing and would secure contributions in terms of education, health and library facilities, bus stops and highway improvements. In spite of the Council's claim, I have no reason to find that the housing would not be deliverable, in the context of the definition within Annexe 2 of the Framework.
79. While the sites are located outside of the settlement boundary for Woolpit, as a key service centre the site would have good accessibility to local services and facilities, providing a benefit for future occupants as well as in terms of sustaining the wider community of Woolpit through supporting these services and facilities.
80. In general terms, the open space would be a benefit to future occupants of the development site and village residents in terms of health and wellbeing. There would also be ecological benefits from the development of a wildlife meadow and ponds which could create new habitats for protected species. The proposed open space site would increase opportunity for the enjoyment of the Lady's Well scheduled monument, including through the development of accessible footpaths and the removal of the powerlines which run through part of this.
81. I do, however, have concerns about the submitted UU in terms of it fulfilling its role as a mechanism in terms of linking the sites together which brings about significant uncertainties in terms of the delivery of the open space as part of the benefits of the scheme. Factual errors were corrected following the close of the Hearing, but I still consider that there is ambiguity around the wording, definitions and in respect of the management company going forwards. Moreover, as the monument is not within the appeal site, claims that the developments would allow for improved maintenance of the monument are unsubstantiated.
82. I have found harm to the scheduled monument, the Grade I listed Church of St Mary and the Woolpit CA for the reasons given above. Based on my findings, I thus disagree that the open space would better reveal the significance of the monument or that the restoration of historic field boundaries and the creation of new views to the Church spire would constitute a public benefit.

83. I have also found harm in terms of the potential amount and density of development and related to the living conditions of future residents in terms of noise and disturbance. It must also be noted that these factors are also interrelated in respect of the harm I have found to heritage assets in terms of the acoustic screen and the monument and the amount of development and the constraints of the site.
84. Taking the above benefits into consideration, in light of the adverse effects I have identified, I do not consider that the public benefits of the proposal would outweigh the harm to designated heritage assets (including those of the highest significance).
85. During the course of determination of the applications, and at the Hearing, the Council conceded that they were unable to demonstrate a 5year supply of housing, thus triggering paragraph 11 of the Framework. This dictates that planning permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development or (ii) the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
86. The Council's position at the Hearing was that a supply could not be demonstrated at that time, but I was made aware that they were looking to update their position. Following the close of the appeal, the Council duly produced an updated 'Housing Land Supply Position Paper' published on the 19<sup>th</sup> March 2019 and based upon submissions made, the Council now consider that they can demonstrate a housing land supply of 5.06years. This change is disputed by the appellant who considers that the tilted balance should still apply.
87. However, as I have found harm to designated heritage assets, as listed in footnote 6 of the Framework, this provides a clear reason for refusing the development proposed, and I do not need to further consider whether the adverse impacts would significant and demonstrably outweigh that harm. In this regard, whether or not the paragraph 11 test still falls to be considered is largely irrelevant as even if I were still to find that the Council could not demonstrate a housing land supply as maintained by the appellant.
88. Overall, the development would cause harm to heritage assets, and other harms in respect of noise and disturbance and amount and density of development. The proposals cannot therefore constitute sustainable development for which the Framework presumes in favour.

## **Conclusion**

89. For the reasons above, taking into account all other matters raised, I dismiss both of the appeals.

*C Searson*

INSPECTOR



## APPEARANCES

### FOR THE APPELLANT:

|                 |  |
|-----------------|--|
| David Churchill | Carter Jonas                                     |
| Meyric Lewis    | of Counsel instructed by New Hall Properties Ltd |
| Nick Fairman    | New Hall Properties Ltd                          |
| John Newman     | John Newman Archaeological Services              |
| Andrew Derrick  | Architectural History Practice                   |
| John Ridpath    | Hann Tucker Associates                           |

### FOR THE LOCAL PLANNING AUTHORITY:

|                 |  |
|-----------------|--|
| Graham Robinson | DLP Planning Limited                             |
| Vincent Pearce  | Mid Suffolk District Council (Principal Planner) |
| Jonathon Duck   | Mid Suffolk District Council (Heritage Officer)  |
| Neil McManus    | Suffolk County Council (Planning Obligations)    |
| Luke Barber     | Suffolk County Council (Highways)                |
| Rachael Abraham | Suffolk County Council (Archaeology)             |
| Clive Bentley   | Sharps Redmore                                   |

### INTERESTED PERSONS:

|                         |  |
|-------------------------|--|
| Leslie Short            | Artisan Planning (on behalf of Goldstar Transport) |
| John Guyler             | Woolpit Parish Council Chairman                    |
| Dr Helen Geake          | Local Resident                                     |
| Denise Mawhood          | Local Resident                                     |
| Derek Curry             | Local Resident                                     |
| Professor Robert Turner | Local Resident                                     |

## DOCUMENTS

- 1 Appeal Decision: APP/W3520/W/18/3194926
- 2 Appeal Decisions: APP/W3520/W/17/3184908 & APP/W3520/W/17/3184909
- 3 Minutes of the Mid Suffolk Planning Referrals Committee 11 April 2018.
- 4 Historic England Good Practice Advice in Planning Note 3 (Second Edition) 'The Setting of Heritage Assets.'
- 5 Historic England 'Conservation Principles, Policies and Guidance' 2008 via URL: <https://historicengland.org.uk/images-books/publications/conservation-principles-sustainable-management-historic-environment/>
- 6 Appeal Decision: APP/W3520/A/13/2195228
- 7 Site Plan for Land off Old Stowmarket Road (south side).
- 8 Woolpit Neighbourhood Plan 2016-2036 Pre-submission draft.
- 9 Woolpit Neighbourhood Plan Local Green Space Appraisal
- 10 Woolpit Neighbourhood Plan Landscape Appraisal
- 11 Photographs dated February 2019 of lorries along A14 link road.