

Appeal Decision

Inquiry Held on 16-17 November 2021

Site visit made on 18 November 2021

by Patrick Hanna MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st December 2021

Appeal Ref: APP/X3540/W/21/3280171

Land west of Chapel Road, Grundisburgh

- 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 planning permission.
 - The appeal is made by Hopkins Homes Limited against East Suffolk Council.
 - The application Ref DC/20/3362/FUL is dated 27 August 2020.
 - The development proposed is erection of 70 dwellings, including affordable dwellings, together with public open space, roads, accesses, parking, garages, drainage and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 70 dwellings, including affordable dwellings, together with public open space, roads, accesses, parking, garages, drainage and associated infrastructure at land west of Chapel Road, Grundisburgh in accordance with the terms of the application Ref DC/20/3362/FUL, dated 27 August 2020, subject to the conditions in the attached schedule.

Procedural Matters

2. The application for planning permission as originally submitted was for 80 dwellings but was amended to 70 dwellings by the appellant following discussion with East Suffolk Council (ESC). On 29 June 2021, the application was deferred by the ESC planning committee in order to seek independent highways advice from Brookbanks Consulting Ltd, notwithstanding the recommendation for approval by planning officers. An appeal was then lodged by the appellant on 3 August 2021 on grounds of non-determination.
3. Brookbanks produced a peer review, dated 16 September 2021, of the appellant's Transport Assessment (TA). On 20 September 2021, the planning committee resolved to defend the appeal on the grounds that the TA was substantially deficient and that it was not possible to make a sound judgement in respect of highways impact and compliance with development plan policy and the National Planning Policy Framework (the Framework).
4. The appellant submitted Technical Notes 01 and 02 to address the identified deficiencies. On 12 October the highways authority Suffolk County Council (SCC) confirmed its continued non-objection to the proposal. A final Brookbanks report dated 22 October 2021 advised ESC that the transport information was now no longer deficient with a number of recommendations. On 26 October 2021 the planning committee resolved not to defend the appeal on the grounds that there were no longer any deficiencies in the TA.

5. A duplicate application DC/20/3284/FUL for the same proposal was also considered at the same committee meeting. ESC resolved to approve that application subject to completion of a planning obligation, agreement of planning conditions, and a review of the outstanding objections.
6. A planning obligation by Deed of Agreement under s106 of the Town and Country Planning Act 1990 has been submitted, which has been signed by Hopkins Homes, the landowner, ESC, and SCC, dated 1 December 2021. This contains obligations in respect of affordable housing, open space, and contributions towards RAMS, bus service, secondary school transport, secondary education, and a public right of way. I return to this later.
7. An Environmental Impact Assessment screening direction was issued on 19 November 2020 stating that the Secretary of State was not persuaded that a scheme on the scale of this application would create changes to the environmental sensitivity of the surrounding area of the magnitude necessary for an Environmental Statement.

Main Issues

8. Notwithstanding ESC's non-defence of the appeal, there have been a substantial number of objections to the proposal. Whilst those objections cover a range of matters, the key concerns focus on the location of the development and highways matters. Consequently, the main issues are:
 - whether or not the proposal would harm the settlement pattern of the area with regard to local and national policies for housing; and
 - whether or not the proposal would have an unacceptable impact on highway safety or have a severe cumulative impact on the road network.

Reasons

9. The appeal site is an approximately rectangular area of land of some 5.16 hectares located to the south of Grundisburgh. The site is bounded by residential properties and gardens to the north, where a public right of way connects Chapel Road, Ipswich Road and Pond Hill Gardens. Opposite the site to the east are further residential properties. A recreational park is located to the west. To the south are Grundisburgh Hall Park (GHP) and open agricultural land. The site is gently undulating and is currently in agricultural use.
10. The proposal is for erection of 70 dwellings, 23 of which would be affordable housing, with a central play area and a larger area of open space to the south of the site. Access to the site would be from Park Road, with a secondary access serving two dwellings taken from Chapel Road. A number of off-site highways works are proposed within the locality.

Settlement pattern

Policy context

11. The Suffolk Coastal Local Plan (SCLP) was adopted by ESC in September 2020. Grundisburgh is identified as a large village in the settlement hierarchy. ESC strategy under policy SCLP3.1 (Strategy for Growth) is to deliver an ambitious plan for growth over the period 2018 to 2036. This growth plan includes significantly boosting the supply of housing, the mix of housing available and the provision of affordable housing. At least 542 new dwellings will be delivered per annum, amounting to at least 9,756 dwellings to 2036.

12. This strategy also seeks to provide opportunities to create and enhance sustainable, inclusive and appropriate economic growth in rural areas that will help to support and sustain existing communities. The starting point to this, as identified in the supporting text to policy SCLP3.2 (Settlement Hierarchy), is that villages such as Grundisburgh are in principle suitable places to accommodate new housing.
13. To that end, the SCLP puts the appeal site within the Grundisburgh settlement boundary and allocates it for approximately 70 dwellings under policy SCLP12.51 (Land West of Chapel Road, Grundisburgh). That policy requires, amongst other things, provision of housing for older people, affordable housing, open space, pedestrian access to the village, and a design that is sympathetic to the GHP historic park and garden. Whilst I return to these individual matters in detail later, it will be seen that I have found the proposal to be appropriate in these respects. Overall, therefore, the proposal accords with the site allocation policy.
14. The need for housing at this location is disputed by interested parties. Although the allocations in the SCLP exceed the total requirement to 2036 by some 1,610 dwellings, or some 16.5%, the supporting text to policy SCLP3.1 explains that this approach aims to provide confidence that the overall housing requirement would still be met if some sites fail to come forward. Furthermore, the Framework makes it clear that it is important that a sufficient amount and variety of land can come forward where it is needed in order to significantly boost the supply of homes. Therefore, the proposed development of this allocated site is anticipated to contribute directly to the housing requirement for the area. Whilst the size and scale of the proposal raises concerns from interested parties, the proposal is what the site allocation envisages.
15. In accessibility terms, the Ipswich Road bus stops and the doctors surgery are within or at some 400 metres of the site, as measured from the centre of the appeal site. Grundisburgh primary school is just beyond the 400 metre zone but remains within reasonable walking distance, as are other facilities in the village, such as the village shop and public house which are within some 800 metres. Regular bus services operate to Woodbridge and Ipswich, as well as to Farlingaye High School and Otley College. Furthermore, the sustainability of the site in this respect is implicit given the site allocation.
16. Interested parties have raised a number of concerns about the procedures followed during adoption of the SCLP¹, claiming the plan and site allocation to be unsound for two key reasons. First, a late change was made to proposed sites and, second, non-provision to the examination of what is claimed to have been crucial information relating to tree works, the latter of which I return to later. However, the adoption of the SCLP has been through a robust examination process, which included detailed consideration of proposed sites. This was not formally challenged by any party at that time, and this s78 appeal is not the appropriate mechanism to do so now.
17. Although I appreciate the concerns of residents, the SCLP is the development plan against which I am required by law to determine this appeal, unless material considerations indicate otherwise.

¹ Report on the Examination of the Suffolk Coastal Local Plan, ref PINS/J3530/429/8, dated 8 September 2020

18. Planning permission for residential development was previously refused at the appeal site. However, that was some 57 years ago and determined under a different policy framework, such that it is of no relevance to this appeal.

Conclusion on location

19. The proposal would not harm the settlement pattern of the area with regard to local and national policies for housing. The proposal accords with policy SCLP12.51 of the SCLP and Section 5 of the Framework which supports the Government's objective of significantly boosting the supply of homes.

Highways

20. The appeal site is adjacent to Park Road and Chapel Road which, along with Chapel Lane, Lower Road and Meeting Lane form a network of narrow rural lanes that serve the site. These identified streets are all designated as Quiet Lanes, which are single-track roads that encourage shared use by walkers, horse riders, cyclists and other vehicle users, with maximum speed of 30mph, and typical vehicle movements of less than 1000 per day. Beyond this network of Quiet Lanes, Grundisburgh is accessed from the west by Ipswich Road, and from the north and south via the B1079 Grundisburgh Road.
21. The supporting text to site allocation policy SCLP12.51 indicates that vehicular access to the site is expected to be onto Park Road, to the south of the site. This requirement was bought about during examination of the plan by main modification 86 as the location where the public highway should be of sufficient width to allow safe and suitable vehicular access to be achieved. Accordingly, the proposal indicates the principal access from Park Road, with a secondary access for two dwellings from Chapel Road. Previous unfavourable SCC highways advice² regarding development of the site has been superseded by subsequent analysis and the development plan allocation.
22. Interested parties highlight three main areas of concern; firstly, the traffic data and methodology; secondly, the existing narrow design and layout of the road network; and finally, the proposed works to the highway.

Traffic flow data

23. It is asserted by Grundisburgh and Culpho Parish Council (GCPC) that the forecast distribution of traffic from the development (some 57% on Park Road and 43% on Lower Road) does not reflect the realities of traffic flows on Park Road and Lower Road (some 466 and 528 respectively). It is further claimed that this methodology is not consistent with the TRICS industry standard, with the result being that higher than predicted levels of traffic will use the heavily constrained Lower Road.
24. Whilst the collection of data is acknowledged by the appellant to have been undertaken in a month that was not neutral, as it was when petrol shortages occurred, adjustments were accordingly made to those figures. This is a reasonable response to imperfect data collection and this approach has been accepted by both SCC and Brookbanks.
25. GCPC indicate that the consequence of the above figures is that an uplift of 24%³ should be applied to the figures, resulting in a daily traffic volume on

² Cllr Fryatt's representation includes extracts of SCC advice dating from 2006 and from the local plan process

³ As set out in GCPC correspondence dated 2 November 2021

Park Road of some 1005, thereby exceeding Quiet Lane standards. This was challenged by the appellant at the inquiry, leading to a concession that this figure was derived from calculating gross movements, whereas traffic has to come or go to one side of Park Road or the other. In contrast, the appellant's calculations indicate that at most, Park Road West would experience 761 movements and, even if the GCPC uplift were added to this, 1000 movements would not be reached. On this basis, the evidence indicates that none of the Quiet Lanes would exceed this level. Even if movements were to reach the worst-case scenario presented by GCPC of 1005, this very limited exceedance of what is only a guidance figure would not be materially significant.

Existing highway constraints

26. Lower Road is a narrow rural road, with an S-bend that completely restricts forward visibility at that point. Great concern has been expressed by interested parties about the difficulties this S-bend currently causes for passing vehicles; that even two small cars cannot pass each other; that passing places along the road are limited in number; that one vehicle must reverse what may be some distance to an appropriate passing place, sometimes reversing back through the S-bend; and that private driveways are often used as passing places.
27. Whilst it is not the responsibility of the developer to resolve existing problems within the highway network, it is necessary that any additional traffic from the development can be suitably accommodated or appropriately mitigated. The figures provided by the appellant indicate a forecast daily flow from the development of 171 movements along Lower Road. Taken together with projected 2026 flows, this would result in a total of some 753 movements. Whilst this forecast traffic flow represents a considerable increase over existing, it nonetheless remains significantly below the 1000 guidance figure that a Quiet Lane with 30mph speed limit and shared use is anticipated to accommodate.
28. The full extent to which passing places along Lower Road rely on use of private land or driveways, as opposed to use of road verges, is not clear from the evidence before me. It is certainly the case that residents would be entitled to prevent third party access onto their own land and, from my observations, some already do. The effect of the additional traffic from the development would worsen this situation to some degree. However, given the above discussed traffic flow figures, the effect would be significantly short of what the Framework describes as the severe residual cumulative impacts on the road network that would be necessary to refuse the application. Furthermore, there would be more suitable alternative access roads to the site, even though the distances may be longer.
29. In terms of accident data, some ten accidents in the village are identified in the TA and accident review, none of which were serious. SCC confirm that there is no pattern of accidents that is likely to be worsened by the proposal, and this is also endorsed by Brookbanks. I see no substantive evidence to disagree.

Proposed highway works

30. The primary access to the site would be taken from Park Road, a designated Quiet Lane. Taking primary access from a shared surface such as this is claimed by interested parties as being contrary to Table 3.3 (street elements for users) of the emerging Suffolk Design: Streets Guide (2020)(SDSG) which suggests that access should only be taken from C-class roads or greater.

However, the accompanying text to this table explains that this guidance relates to street elements within new developments. It accepts that, for existing streets, compromises may be necessary to retrofit design elements to existing layouts or highways boundaries. Both the Park Road and the Chapel Road accesses to the appeal site have been confirmed by SCC and independent consultant Brookbanks to meet design and visibility standards.

31. Improvements to the wider road network are proposed in the form of; the widening of Park Road; installation of a passing place along Chapel Road; and junction improvements at Park Road/Ipswich Road and Lower Road/B1079.
32. Park Road would be widened to 4.8 metres, which would allow two cars to pass at slow speeds. As such, walking and cycling along this road would remain safe and with the same priorities as existing. Despite concerns about increase in speeds, the speed limit would not change, and the rural characteristic of the Quiet Lane would nonetheless be maintained. Furthermore, the widening of Park Road, could at least to some degree, encourage drivers from the development to use Ipswich Road to access the village and the B1079, instead of the narrower network of rural roads, despite being longer.
33. One passing place along Chapel Road is shown on the proposed plans. Although a further passing place is recommended by Brookbanks, this is only stated as being desirable rather than necessary. Furthermore, SCC indicate that there is little justification for an additional passing place. Accordingly, I am not persuaded that a second passing place needs to be secured.
34. Visibility at the Park Road/Ipswich Road and Lower Road/B1079 junctions would be improved using deflection arrows, new signage, and road markings. The latter junction would also be subject to highway realignment. Criticism is aimed at these road improvements by interested parties for not meeting current highway standards, claiming that "safer does not mean safe". Whilst the SDSG sets out minimum junction visibility requirements, this relates to new junctions and, for existing junctions, the SDSG acknowledges that other factors will also need to be considered as part of the planning process.
35. In these respects, the SDSG reflects paragraph 110 of the Framework which indicates that for allocated sites, any significant impacts on the transport network or road safety in terms of capacity or congestion should be cost effectively mitigated to an acceptable degree. The conclusion of three highways engineers is that the proposal would provide a safe and suitable access to the site for all users. There is no substantive evidence to persuade me otherwise. Overall, I find that the road improvements comply with these requirements.

FP20 and pedestrian connectivity and safety

36. Public right of way FP20 currently runs in an east-west direction along the north of the appeal site, which is currently an earth path through a grassed area with some small trees. The proposal would provide connectivity from the appeal site to this path and improve the surfacing of the path.
37. Although the most direct access to the village centre would continue to be via Meeting Lane, this would not result in any increased risk to pedestrian safety as this route would still be designated as a Quiet Lane suitable for shared use. Similarly, whilst a new pedestrian path would be provided alongside stretches of Chapel Road and Park Lane, these would not prevent or discourage use of

the shared roads. Rather, these proposed paths would contribute to a network of footpaths within and around the site that would improve connectivity and encourage recreational use. Additional pedestrians walking through the playing field car park would not cause any greater safety issue than currently exists. Reasonable drivers would manoeuvre carefully and with pedestrians in mind.

38. FP20 is not proposed to be served by streetlights. However, streetlights are not a particularly prevalent feature in the village, nor are they required by SCC. Surfacing of FP20 would make the footpath significantly more useable for pedestrians across all seasons, and this benefit outweighs any potential for unauthorised cycling, which would be a matter for the enforcing authorities.
39. Although FP20 is indicated to run through private rear gardens of dwellings on Pond Mill Crescent, my observations are that these gardens have a hedge or fence to physically separate the private gardens from the public path. Whilst FP20 may be on land owned by these properties, it is not disputed that this footpath is maintainable by SCC. Any third-party consent required to facilitate access from the appeal site to FP20 would be a matter between the parties, and any minor re-alignment of the footpath would be subject to the relevant statutory process.

Conclusion on highways

40. The proposal would not have an unacceptable impact on highway safety or have a severe cumulative impact on the road network, and complies with policy SCLP7.1 of the SCLP and paragraphs 110 and 111 of the Framework.

Other considerations

41. In addition to the main issues raised above, the following matters represent the key remaining concerns raised by interested parties.

Character and appearance

42. Grundisburgh is noted by interested parties as being of charming character and appearance, and a quintessential Suffolk village characterised by the narrow, winding roads by which it is approached. The widening of Park Road raises concerns about direct loss of trees from the non-designated heritage asset (NDHA) GHP to the south, as well as harming the significance of GHP by impact on its setting. The significance of GHP as experienced from Park Road derives from the designed naturalised landscape park surrounding the Hall.
43. The addendum to the AIA is the most recent and detailed assessment of the arboricultural effect of these widening works. It indicates that the extent of widening ranges between 300mm and 900mm. All of the veteran Oaks in GHP are sufficiently distant from the carriageway so as to be unaffected by the proposal, with the exception of T74.
44. The proposed works within the root protection area of T74 would be within a strip of between 380mm and 740mm width, amounting to just some 1.5% of the total RPA. Furthermore, the works would be in a location assessed as having been previously disturbed. Therefore, the works would not be critical to the physiological function of the tree, subject to use of manual excavation techniques and root pruning under arboricultural auditing. As such, the proposal would not adversely affect any significant trees.

45. Three trees would be lost, one adjacent to the site entrance (T43) and two opposite and west of the site entrance (T44 and T102). However, T43 is a low-quality tree for which mitigation would be provided within the landscaping scheme for the site. T44 and T012 are both assessed as being in hazardous structural condition.
46. Overall, I find that the addendum's assessment of effects is more persuasive than the drawing suggesting potential tree loss that only emerged after the local plan examination process⁴. Accordingly, no harm would be caused to trees within GHP as a result of the proposed development, and it follows that there would be no direct harm to the significance of the GHP NDHA. Furthermore, given the large area of proposed open space to the south of the appeal site, nor would the significance of the GHP NDHA be harmed by way of its setting.
47. The site also forms part of the setting for the Strict Baptist Chapel NDHA on the opposite side on Chapel Road. Its significance derives from its evidential value, historic association value and some aesthetic value. The appellant considers that the appeal site comprises a neutral element in the setting of the Chapel, which does not contribute to its significance, and which causes no harm. From my observations of the openness of the site, I am more persuaded by the ESC opinion that there was an intended degree of visibility in longer views across the site, rather than this being incidental. Nonetheless, the harm to the significance of the NDHA by way of its setting is agreed by ESC to be low level. This harm to the significance of the Chapel NDHA by impact upon setting results in a limited degree of conflict with SCLP11.6 (NDHAs) of the SCLP.
48. I see no reason why any trees planted on private land along the route of FP20 would need to be removed but, equally, these trees do not make a particularly significant contribution to the surrounding area. Whilst the design and layout of the proposal does not incorporate all of the recommendations of Suffolk Constabulary's designing out crime report, there are competing demands with other requirements such as those for placemaking and biodiversity. Overall, I find that the proposal represents locally distinctive and high-quality design in accordance with policy SCLP11.1 (Design Quality) of the SCLP.

Habitat Regulations Assessment

49. The appeal site falls within the 13km zone of influence for the Deben Estuary SPA and Ramsar, Sandlings SPA, and Stour and Orwell Estuaries SPA and Ramsar (the Sites), as set out in the Recreational Disturbance Avoidance and Mitigation Strategy (2019)(RAMS) for the wider area. The Sites are afforded protection under the Conservation of Habitats and Species Regulations 2017.
50. The RAMS indicates that new residential growth brings new residents to the local area that use the Sites for recreation, which can bring pressure to sensitive wildlife features. The proposed dwellings, in combination with other projects, are therefore anticipated to have likely significant effects on the Sites due to the risk of increased recreational pressure. Accordingly, I am required to undertake an appropriate assessment and, in carrying this out, I have had regard to the shadow assessment submitted by the appellant.
51. The interest features of the Sites are nationally and internationally important populations of birds, migratory species, and notable assemblage of breeding

⁴ Extract of Ingent Plan drawing no. 1812-296-001C provided in GCPC representation

and wintering wetland birds⁵. The conservation objectives of the Sites are to ensure that the integrity of the Sites are maintained or restored as appropriate, and to ensure that the Sites contribute towards achieving the aims of the Wild Birds Directive. This is to be achieved by maintaining or restoring the extent and distribution of the habitats; their structure and function; the supporting processes on which the habitats rely; as well as the population and distribution of the interest features.

52. The RAMS states that failure to manage the Sites appropriately can cause habitat deterioration and population declines. The birds at the Sites are sensitive to disturbance from walkers and cyclists, and particularly from dogs off leads. As such, given the proximity of the appeal site to the Sites, it cannot be ascertained that the proposal will not in combination with other projects adversely effect the integrity of the Sites. Consequently, two forms of mitigation are proposed.
53. Firstly, a financial contribution of £321.22 per dwelling would be secured towards delivering measures to prevent adverse effects on the Sites, as set out in the RAMS Supplementary Planning Document (2021)(SPD). Those measures would include, amongst other things, provision of a warden service, signage, and awareness raising. Secondly, provision of Suitable Alternative Natural Green Space containing positive features to accommodate dog walkers would be secured. This would be provided on site, with some additional matters such as dog bins to be secured by condition. Natural England (NE) concur with the appellant's shadow assessment, and the effectiveness of this mitigation, conditional upon all mitigation measures being appropriately secured.
54. I therefore conclude, having regard to the Sites' conservation objectives, that the proposed mitigation, secured in line with the RAMS SPD, would avoid the development having an adverse effect on the integrity of the Sites. The proposal complies with the Habitats Regulations Assessment aspects of policy SCLP10.1 (Biodiversity and Geodiversity) of the SCLP.

Biodiversity

55. A preliminary ecological appraisal (EA), including extended Phase 1 Habitat survey, was submitted with the application. This concludes, amongst other matters, that the site has limited opportunities for bats, such that it is of 'site' level of importance only. Tree T7 along the site boundary with Chapel Road is of moderate potential for roosting bats, but has also been identified for felling. Interested parties claim further surveys are required, referring to paragraph 99 of Circular 06/2005 which states that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, should be established before planning permission is granted.
56. The ESC ecologist has proposed addressing the need for a further survey, along with any necessary mitigation measures, by planning condition. Tree T7 in the EA is identified in the AIA as an English Oak (Tree 13) in a state of terminal decline with limited potential future and in hazardous structural condition. The dangerous condition of this tree, in a location adjacent to the public road, indicates exceptional circumstances that justify the proposed approach.

⁵ The list of interest features for each site is listed at RAMS Table 1 Summary of Interest Features

57. The proposal also intends to deliver biodiversity net gain, with a metricated assessment submitted, indicating gains of 22.43% for habitats and 45.3% for hedgerows, which weighs in favour of the proposal. Overall, the proposal complies with policy SCLP10.1 (Biodiversity and Geodiversity) of the SCLP.

Planning obligation

58. Policy SCLP5.10 (Affordable Housing) of the SCLP requires that residential development of the scale proposed will be expected to make provision for 1 in 3 units to be affordable dwellings, made available for identified local need. The obligation would secure this requirement by delivering 23 affordable units on a phased basis, of which 11 are for affordable rent and 12 for shared ownership, with 2 being bungalows, for eligible persons on the housing waiting list. The obligation also contains arrangements for the laying out and maintenance of open space, in order to encourage active lifestyles and increase participation in recreation, as set out in policy SCLP8.2 (Open Space). The RAMS financial contribution is necessary for the detailed reasons given above.
59. The bus service contribution would be used to improve the bus service serving Grundisburgh, to meet the requirement of policy SCLP7.1 (Sustainable Transport) that developments should be designed from the outset to incorporate measures that will encourage travel by non-car modes. SCC comment that, whilst the development may not be large enough to justify a service contribution, the contribution of £100,000 would enable SCC to add another vehicle to the contract and thus improve the frequency of the existing service through Grundisburgh.
60. The secondary school transport contribution is a tariff-based contribution, based on 12 children at £1,205 per annum for 5 years, amounting to £72,300. This would address the requirement for local authorities to provide free travel for children if their school is over 3 miles away. Whilst no specific policy basis for this contribution has been indicated to me, this is nonetheless an additional need generated by the development. The supporting text to policy SCLP12.51 indicates that Farlingaye High School is currently operating overcapacity, such that a contribution is required towards the creation of extra capacity. Based on the 2019 DfE scorecard, the new build cost of £24,929 per pupil, amounting to £299,148 for the anticipated 12 pupils. This accords with the requirement in paragraph 95 of the Framework to give great weight to the need to create, expand or alter schools through decisions on applications.
61. The obligation also secures a PROW contribution of £9,000 towards the cost of improving FP20 and, if advantageous at the detailed design stage, slight re-alignment of the route using the statutory order making process. This would contribute to meeting the requirements of policy SCLP7.1. For these reasons, I am satisfied that all of the above obligations are necessary, directly related to the development and fairly related in scale and kind. They comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the Framework.

Other matters

62. The appeal is for full planning permission, but no proposed ground or floor levels have been provided. However, the levels around the peripheries of the appeal site are broadly equivalent with the levels at residential areas around

the site. On that basis, suitable levels could be appropriately agreed at a later stage, despite any conflict with ESC application validation requirements.

63. A number of interested parties raise concerns regarding the capacity of local community services. These matters are satisfactorily addressed by the above discussed planning obligation, where SCC has identified specific needs arising from the proposed development. In allocating the site for housing it is implicit that the loss of agricultural land at the site, said to be of good to moderate quality, was considered acceptable.
64. Criticism is aimed at the proposal for contributing towards climate change. However, it is proposed that the development would achieve higher energy efficiency standards through a 20% reduction below the Building Regulations target CO2 emissions rate. Electric car charging facilities would also be provided to meet emerging need. There is no substantive evidence before me to indicate that any increase in emissions from vehicles slowing down and speeding up within the 30pmh Quiet Lanes, or any consequential effect on resident's wellbeing, would be significant.
65. The development would result in more dogs being walked along the network of footpaths within the site and surrounding area, but there is nothing to suggest that responsible dog owners would allow their dogs to foul the playing fields. That loud bad language occurs during football matches on the playing field is a matter that can potentially be managed by the club, but not by the developer.
66. Interested parties have raised concerns about the application and appeal processes. It is suggested that ESC should not have accepted the duplicate application for planning permission. However, this is a matter for ESC and, in any case, I am still required to determine this s78 appeal. That the appeal timetable, which was scheduled in accordance with normal practice, had the consequence of compressing the ESC timetable for determination of the duplicate planning application is not a matter within my jurisdiction, nor is the manner in which ESC officers and committee considered the application.
67. Representations were made to the effect that the rights of interested parties, under the Human Rights Act 1998, Article 8 and Article 1 of the First Protocol, would be violated if the appeal were allowed. Particular reference is made to the landowners over whose land FP20 passes and the residents of Lower Road who allow use of private driveways as passing places. I do not consider these arguments to be well-founded, because FP20 is already a designated public right of way and any reliance on private land for passing places could be withdrawn by residents at any time. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Article 8 and Article 1 of the First Protocol.

Conditions

68. A list of suggested conditions was submitted, which was discussed at the inquiry. Amendments have been made to the wording of some conditions for clarity, brevity, or to avoid duplication, and to ensure accordance with the tests set out in paragraph 55 of the Framework. Pre-commencement conditions have been agreed by the appellant.
69. In the interests of providing certainty, a condition specifying approved plans is necessary (Condition 2). In the interests of protecting and enhancing

biodiversity, conditions relating to; provision of recreational facilities (Condition 3); ecological mitigation (Condition 4); hedgerow, tree and scrub removal (Condition 5); bat and badger surveys and mitigation measures (Conditions 6 and 7); lighting scheme (Condition 8); ecological enhancements, including biodiversity net gain and minimisation of tree loss (Condition 9); a landscape and ecological management plan (Condition 10); and an arboricultural method statement (Condition 29) are reasonable and necessary.

70. In the interests of appearance of the area, a condition relating to hard and soft landscaping works (Conditions 11 and 12) is reasonable and necessary. In order to protect the living conditions of residential properties, conditions relating to construction management including construction hours and construction drainage (Condition 13) is reasonable and necessary. To enable the development to meet sustainability requirements, conditions relating to electric vehicle charging and energy efficiency (Conditions 16 and 17) are reasonable and necessary. To prevent flooding and ensure the site can be adequately drained, a condition relating to surface water disposal (Condition 18) is reasonable and necessary.
71. In the interests of safety, including highway safety, and connectivity with the wider footpath and highway network; conditions relating to contaminated land (Condition 14); fire hydrants to be agreed by slab level to ensure appropriate infrastructure can be provided (Condition 15); access to the site (Conditions 19 and 23); footpath improvements, passing places and cycle connections (Condition 20); storage of refuse bins (Condition 21); site layout and levels, including any necessary swept path analysis (Condition 22); parking provision (Condition 24); cycle storage (Condition 25); visibility (Conditions 26 and 27) are reasonable and necessary. To protect archaeological interests, a condition requiring a scheme of investigation including timetabling and publication of reports (Condition 28) is reasonable and necessary.
72. A suggested condition relating to the flood risk asset register has been removed with agreement of the main parties. A suggested condition requiring a second passing place along Chapel Road would not meet the test of necessity, given the above discussed evidence. Conditions have been suggested for road safety audits, however these would normally be dealt with as part of the s278 highways application prior to any permission to work in the highway being granted, as indicated by SCC in its response to the appeal. Consequently, in respect of the planning permission, a pre-commencement condition for road safety audits is not necessary as the implementation of the highway works is subject to fully suspensive conditions in any case.

Planning balance and conclusion

73. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. I have found that the proposal complies with the locational site allocation policy SCLP12.51 and with other relevant policies including affordable housing policy SCLP5.10, sustainable transport policy SCLP7.1, biodiversity policy SCLP10.1, and design quality policy SCLP11.1. Whilst I find that there is a limited conflict with NDHA policy SCLP11.6, I conclude that the proposal accords with the development plan when taken as a whole.

74. Paragraph 11 of the Framework states that development that accords with the development plan should be approved without delay. There are no material considerations, taken individually or cumulatively, that indicate that the appeal should not succeed. Overall, I conclude that planning permission should be granted subject to the conditions in the attached schedule.

Patrick Hanna

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Richard Ground QC, instructed by Geoff Armstrong

He called:

Geoff Armstrong BA(Hons) MRTPI Armstrong Rigg Planning

Robert Evans BEng(Hons) MSc MCIHT Cannon Consulting Engineers

Noami Sunkin took part in the round table session on the planning obligation

FOR EAST SUFFOLK COUNCIL

Wayne Beglan of Counsel, instructed by ESC's instructing solicitor

Ben Woolnough BSc MSc MRTPI Planning Manager

INTERESTED PARTIES

Colin Hedgley	Ward Councillor
Anne Willetts	Grundisburgh & Culpho Parish Council
Julian Brook	Local resident
Chris Dow	Local resident
Tony Fryatt	Ward Councillor
Chris Oaten	Local resident
Craig Plant	Local resident
Anne Marie Oaten	Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Letter of support from John Dunnett
- 2 Letter of objection from Carrie Herries
- 3 Amended list of agreed conditions
- 4 SCC Design: Streets Guide extract (Section 3.3 Street elements for users) (consultation document)
- 5 Updated Arboricultural Impact Assessment Addendum (June 2021)
- 6 ESC CIL Compliance Statement
- 7 Decision notice refusing outline residential development (27 November 1964)
- 8 Agreed planning obligation by deed of agreement under s106
- 9 Shadwell Estates Ltd v Breckland DC [2013] EWHC 12 Admin
- 10 Appellant's Closing Statement
- 11 Recreational Disturbance Avoidance and Mitigation Strategy SPD (May 2021)
- 12 HRA Recreational Disturbance Avoidance and Mitigation Strategy Technical Report (May 2019)
- 13 Signed planning obligation by deed of agreement under s106

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begin not later than three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following plans:
 - Site Location Plan 001
 - External works layout 002 Rev I
 - Planning layout 003 Rev H
 - Materials Plan 004 Rev B
 - General Arrangement 1812-296-278A
 - Road Widening 1812-296-279B
 - Chapel Road Shared Access 1812-296-295
 - Ipswich Road/Park Road Junction Visibility Improvements 1812-296-008A
 - B1079/Lower Road Junction Visibility Improvements 1812-296-009
 - Grundisburgh Footpath 20 Improvements 1812-296-305C
 - Landscape Strategy Plan 6647/ASP3 Rev Eand the following house type plans:
 - GRU5 108B; 109B; 112B; 114B; 129B; 130B; 145; 146; 219B; 220B; 221A; 228A and 229A
 - GRU5 101; 102; 103; 104; 113A; 115A; 116A; 117A; 118A; 119B; 120B; 121B; 122A; 123A; 124A; 125A; 126A; 127A; 128A; 131A; 132A; 133A; 134A; 135A; 136B; 141A; 142B; 143A; 144A; 147; 209A; 210A; 211A; 212A; 217A; 218A; 222A; 223; 224; 225; 226; 227and the following garage plans:
 - 301A, 302A, 303A and 304and the following miscellaneous plans:
 - External Works Details 401
3. No development shall take place unless details of the play equipment to be provided on the site and dog bins shall have been submitted to and agreed by the local planning authority. The play equipment and bins shall be installed in accordance with the approved details prior to first occupation of the dwellings or in accordance with a programme agreed with the local planning authority.
4. Development shall be undertaken in accordance with the ecological avoidance, mitigation, compensation and enhancement measures identified within the Ecological Appraisal report (Aspect Ecology, April 2021) and Report to Inform a Habitats Regulations Assessment (HRA) (Aspect Ecology, February 2021) as submitted with the planning application and the provisions contained in the Natural England correspondence dated 14 April 2021, prior to first occupation of the dwellings or in accordance with a programme agreed with the local planning authority.
5. No removal of hedgerows, trees or shrubs or other site clearance shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority prior to removal of any such vegetation.

6. Prior to the removal of the tree identified as T7 in the Ecological Appraisal report (Aspect Ecology, July 2020), the tree shall be subject to surveys for bats by a suitably qualified ecologist to determine if it is being used by roosting bats. The results of the survey work shall be submitted to the local planning authority prior to felling being undertaken. If a bat roost is identified suitable mitigation measures will be identified, submitted to the local planning authority for approval and implemented prior to felling being undertaken.
7. Immediately prior to commencement of development a survey of the site for badgers should be undertaken by a suitably qualified ecologist. Should any evidence of badgers be encountered suitable mitigation measures will be designed and implemented prior to any works affecting badger setts. A copy of the said badger survey will be submitted to the local planning authority prior to development commencing. Should any additional mitigation measures be required details of these will be submitted to the local planning authority for approval and implemented prior to development commencing.
8. Prior to first occupation, a lighting design strategy for biodiversity for the site shall be submitted to and approved in writing by the local planning authority. The strategy shall:
 - a) identify those areas/features on site that are particularly sensitive for biodiversity likely to be impacted by lighting and that are likely to cause disturbance in or around breeding sites and resting places or along important routes used to access key areas of territory, for example, for foraging; and
 - b) show how, where and when external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using territory or having access to breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications, locations and timetable set out in the strategy, and shall be maintained thereafter in accordance with the strategy. No other external lighting shall be installed without prior written approval from the local planning authority.
9. Prior to commencement of development, an Ecological Enhancement Strategy, addressing how and when ecological enhancements shall be achieved on site, shall be submitted to and approved in writing by the local planning authority. Ecological enhancement measures will be delivered and retained in accordance with the approved strategy.
10. A landscape and ecological management plan shall be submitted to, and be approved by, the local planning authority prior to first occupation of the development. The content of the plan shall include the following:
 - a) description and evaluation of features to be managed (including stag beetle habitat);
 - b) ecological trends and constraints on site that might influence management;
 - c) aims and objectives of the 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) the 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;
- h) details of the body or organisation responsible for implementation of the plan; and
- i) how ongoing monitoring and remedial measures will be identified, agreed and implemented.

The development shall be implemented in accordance with the approved details.

11. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished ground and floor levels; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc indicating lines, manholes, supports etc). Soft landscape works shall include planting plans; written specifications including cultivation and other operations associated with plant and grass establishment; schedules of plants, noting species, plant sizes and proposed number/densities where appropriate, an implementation programme, and a scheme of landscape maintenance for a period of 5 years.
12. All hard and soft landscape works shall be carried out in accordance with the approved details before any part of the development is first occupied or in accordance with the agreed implementation programme. The completed scheme shall be managed in accordance with the approved scheme of maintenance.
13. No development shall take place, including any works of demolition, until a Construction Management Plan shall have been submitted to and approved in writing by the local planning authority. The Statement shall:
 - a) provide for deliveries and collections to be undertaken between 0800 and 1630 hours except for the delivery of abnormal loads to the site;
 - b) include an HGV deliveries management plan setting out defined HGV routes for all deliveries during construction;
 - c) include good practice procedures for the control of noise and vibration;
 - d) include best practicable means for the control of pollution;
 - e) detail management of on-site surface and storm water during construction and any off-site flood risk associated with construction;
 - f) identify areas for storage of plant and materials, with any potentially noisy plant sited away from residential properties; and
 - g) provide for training of construction staff.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

14. Any contamination that is found during the course of construction of the approved development that was not previously identified in the Phase 1 and 2

contaminated land surveys shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the relevant phase of development is resumed or continued.

15. Prior to construction above slab level, a scheme for the installation of fire hydrants throughout the site shall have been submitted to and approved in writing by the local planning authority in conjunction with the Fire and Rescue Service. The fire hydrants shall be installed prior to occupation of dwellings served by the relevant hydrant.
16. Prior to construction above slab level, a scheme for the installation of electric vehicle charging points for each dwelling shall have been submitted to and approved by the local planning authority. The electric vehicle charging points shall be installed prior to occupation of the respective dwellings.
17. Prior to the commencement of development full details of how the development shall achieve high energy efficiency standards that result in a 20% reduction in CO2 emissions below the Target CO2 Emission Rate set out in the Building Regulations and water efficiency of 110 litres/person/day shall have been submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the agreed details.
18. No development shall commence until details of the scheme for the disposal of surface water on the site, along with details of implementation, maintenance and management of the scheme shall have been submitted to and approved by the local planning authority. The development shall be implemented in accordance with the agreed scheme.
19. No part of the development shall be commenced until details of the proposed accesses onto Park Road and Chapel Road have been submitted to and approved in writing by the local planning authority. The approved accesses and road markings shall be laid out and constructed in their entirety prior to the occupation of any dwelling served by the relevant access. Thereafter the accesses shall be retained in their approved form.
20. No part of the development shall be commenced until details of the proposed surfacing improvements and links to Footpath 20, the proposed widening of Park Road, the junction improvements at Ipswich Road/Park Road and Lower Road/B1079, the passing place at Chapel Road, and a cycle connection between the internal road and Chapel Road have been submitted to and approved in writing by the local planning authority. The approved details shall be laid out and constructed in their entirety prior to first occupation.
21. The areas for storage of refuse and recycling bins shown on drawing number GRU5 002 Rev I shall be provided in their entirety prior to occupation of any dwelling served by each area and shall be retained thereafter for no other purpose.
22. Prior to construction above slab level, details of the estate roads and footpaths, including layout, levels, gradients, surfacing and means of surface water drainage, shall be submitted to and approved in writing by the local planning

authority. No dwelling shall be occupied until the carriageways and footways serving that dwelling have been constructed to at least binder course level in accordance with the approved details.

23. The new access at Park Road, inclusive of cleared land within the sight splays to this junction, must be formed to at least base course level prior to any other works commencing or delivery of any other materials.
24. No dwelling shall be occupied unless space has been laid out serving that dwelling for the manoeuvring and parking of vehicles, in accordance with Drawing No. GRU5 003 Rev H. Thereafter that space shall be retained and used for no other purposes.
25. Prior to construction above slab level, a scheme for secure cycle storage for each dwelling shall have been submitted to and approved by the local planning authority. The cycle storage shall be installed prior to occupation of the respective dwelling and retained thereafter and used for no other purpose.
26. Before the access onto Park Road is first brought into use, visibility splays shall be provided with an X dimension of 2.4 metres and a Y dimension of 59 metres and shall thereafter be retained in the specified form. No obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.
27. Before the access onto Chapel Road is first brought into use, visibility splays shall be provided with an X dimension of 2.4 metres and Y dimensions of 59 metres (to the south) and 52.8 metres (to the north) and shall thereafter be retained in the specified form. No obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.
28. No development shall take place within the site until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme 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.

The development shall be implemented in accordance with the agreed scheme.

29. Prior to the commencement of development a detailed Arboricultural Method Statement for all tree protection works, supported by 1:500 scale drawings, shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved statement.

End of Schedule