



Appeal Decision

Site visit made on 3 February 2023

by David Spencer BA(Hons) DipTP MRTPI

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

Decision date: 28th March 2023

Appeal Ref: APP/L2630/W/22/3297827

Land South of Redenhall Road, Harleston, Norfolk IP20 9HE

- 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 Ruby Homes (East Anglia) Ltd against the decision of South Norfolk District Council.
 - The application Ref 2020/2144, dated 11 November 2020, was refused by notice dated 2 November 2021.
 - The development proposed is erection of up to 110 dwellings and formation of new vehicular access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application sought outline planning permission with only the details relating to access to be approved at this initial stage. Matters of detail relating to layout, scale, landscaping and appearance would be reserved for future consideration. Nonetheless, the planning application was accompanied by a site layout plan and potential sections and landscaping framework, to be treated on an indicative basis. The Local Planning Authority (LPA) made its decision on this basis and so shall I.
3. On 17 October 2022 the Redenhall with Harleston Neighbourhood Plan (the RHNP) was adopted by South Norfolk Council. It now forms part of the development plan as set out in the LPAs appeal statement. I also have before me lengthy submissions from Redenhall and Harleston Town Council including reference to RHNP policies. The appellant has had opportunity to comment on these appeal submissions as part of their final comments submitted on 14 December 2022. Accordingly, I am satisfied no party would be prejudiced by my consideration of those RHNP policies cited by the LPA and Town Council.
4. The LPA has advised since making its decision that the likely significant effects arising from new residential developments in the form of increased demand for recreational usage at or near other protected Habitats sites across Norfolk means the appeal proposal should be subjected to a Habitats Regulations Assessment (HRA). In light of this I have sought additional information from the LPA and provided opportunity for the appellant to respond to it. The LPA has provided details of its policy approach and the Norfolk Green Infrastructure

and Recreational Impact Avoidance and Mitigation Strategy (GIRAMS)¹. I deal with the HRA as part of my consideration of 'other matters' below.

5. Whilst the absence of a mechanism to secure affordable housing, public open space and habitat mitigation in relation to the GIRAMS did not form part of the LPAs reasons for refusal, the appellant nonetheless provided a draft agreement under Section 106 (S106) of the Town and Country Planning Act 1990 as part of their final comments in December 2022. A final, signed and dated version of the S106 agreement was submitted to the Inspectorate on 16 March 2023.

Main Issues

6. The main issues in this appeal are as follows:

- (i) The effect of the appeal proposal on the character and appearance of the surrounding area; and
- (ii) Whether the scheme can be appropriately accessed from Redenhall Road.

Reasons

Character and Appearance

7. The appeal site comprises an agricultural field on land which rises from its northern boundary along Redenhall Road which is towards the valley floor of the Starston Beck to the north. The field then crests before rolling into a broad, shallow bowl with modern housing to the south and west adjoining at this point. Open fields, of a similar character to the appeal site, extend east from the site as part of the gently undulating open countryside on this side of Harleston. There is a relatively limited landscaping framework at the appeal location with no vegetation along the Redenhall Road boundary and only a short length of thin hedging along part of the eastern boundary. As such the site has a particularly exposed character including when walking the well-used public footpath along the eastern boundary of the site.
8. The openness of the appeal site, and in particular the gentle contours forming the modest but noticeable southern scarp to the valley of the Starston Beck, makes a positive contribution to the rural setting of the small country town of Harleston when approaching from the east on Redenhall Road. The appeal site can also be appreciated as part of the wider countryside setting to Harleston from the public footpath along its eastern boundary, from the footpath and National Cycle Network Regional Route 30 along Green Lane to the south-east and from the public footpath² on the opposite side of the Starston Beck valley. Generally, in views from the south and east the appeal site is mainly seen in the context of existing modern estate housing east of School Lane albeit the crest of the site provides a strong landscape feature, providing a sense of a rural valley beyond. In views from the north and north-east, existing housing at Harleston, including that adjoining the appeal site, is either not visible or only glimpsed at distance. This is due to the topography of the site and vegetation beyond, including to the east of the 'High Court' cul-de-sac. As

¹ All of Norfolk is within a zone of influence for recreational impacts, Harleston is specifically within the zones for the Broads, East Coast and Valley Fens.

² Appellant LVIA viewpoints V1, V2 and V3.

such, the exposed character of the site remains prominent from these perspectives.

9. Housing is visible on approaching Harleston when in Redenhall Road at the appeal site frontage in terms of the short row of traditional cottages (Nos 41-45) and the modern housing behind at Nelson Court, a short distance to the north-west. These houses form an obvious edge to the town at this location. Directly opposite the appeal site to the north and north-east, the predominant character is the verdant valley floor of the Starston Beck, including numerous trees and hedgerows. As such the appeal site largely relates, and is generally read when within Redenhall Road, as being within a rural valley landscape rather than as an obvious part of the town. Most of Harleston is concealed in wider views at this gateway location. Consequently, the appeal site would not represent a logical "squaring off" of development as the appellant submits.
10. In respect of landscape impacts, the appeal site is located within a Rural River Valley Landscape Character Type (LCT) as set out in the 2001 South Norfolk Landscape Assessment. One of the key characteristics of the host LCT are the distinct valley landforms reflecting glacial and fluvial activity. Other characteristics include a semi-enclosed landscape, perceptions of the presence of a river, pastoral floodplain and farmed valley sides and a limited presence of settlement and development. The Landscape Assessment ascribes the distinctive valley landform as a very important or characteristic landscape asset, giving it the highest grading. The 2001 report was undertaken at a reasonably large scale and supplemented in 2006 by a more fine-grained assessment of the landscape in the 'Rural Policy Area' of South Norfolk. This provided greater specificity, defining the appeal location into Landscape Character Area (LCA) A5 'Waveney Rural River Valley'. The key characteristics of the LCA principally relate to the Waveney rather than by specific reference to its tributaries but nonetheless the wider valley characteristics including gently sloping valley sides, arable and pastoral farming on the valley sides and intactness of river valley character are relevant at the appeal location. The LCA identifies landscape sensitivities and vulnerabilities including, amongst other things: valley crest skylines and threat of intrusion of development into these views; need to conserve the mixed arable and pastoral character of the valley sides; and eroding the compact and contained nature of settlements, including market town quality, through expansion. The recommended landscape strategy for the LCA includes, protecting the intact rural character of the river valley and conserving the compact character of market towns. Landscape matters were reviewed in 2012 (by Chris Blandford Associates) which confirmed the distinctive characteristics and special qualities of the LCT and their constituent LCAs including the relevant host A5 area.
11. Whilst the layout plan is only indicative, it is nonetheless difficult to see how the appeal site could be efficiently developed without re-profiling and eroding the soft valley side at this point to sensibly accommodate new housing on the contoured land. The crest and clear skyline provided by the highest parts of the appeal site would be subsumed within development resulting in a significant loss of the pastoral valley side as a positive landscape feature.
12. The proposal would significantly alter and urbanise what is currently a rural, sinuous approach into Harleston along the contour of the valley edge on this part of Redenhall Road. At this point Harleston is reasonably contained within the gentle folds of the landscape such that it does not extend significantly into

- valley landscape of the Starston Beck at the appeal location. Even when allowing for landscaping, the appeal proposal would, due to its location and topography represent the type of intrusive development that the landscape assessments identify as being harmful. This harm would be exacerbated by lighting and other impacts on tranquillity.
13. I deal with highway access below in the second main issue, but a particular landscape attribute of the appeal site, is the rise in the land from Redenhall Road as it follows the valley form close to the floodplain, up to the crest on the valley side towards the centre of the appeal site. Owing to the relative openness of the appeal site there is a clear sense of the topography and landform when leaving and approaching Harleston. The indicative layout shows that to potentially achieve safe highway visibility a notable part of the appeal site adjoining Redenhall Road would have to be cut away and flattened along nearly all of its frontage. This would result in a significant effect on the landscape resulting in a tangible loss of the sense of the valley form in this part of Redenhall Road. It would also reduce the net developable area to that part of the site on the higher land leading to a particularly urbanised impact, starkly at odds with the patchwork of open fields at this rural edge and further eroding the sense of the valley landform. The appellant submits that the levelled site frontage to Redenhall Road could be bounded by landscaping to the housing and maintained as meadow habitat and attenuation basin but this would not effectively mitigate the landscape harm identified.
 14. In terms of separate visual impacts, whilst landscaping, layout and scale are reserved for future consideration, as described above, the appeal proposal would be appear in the wider landscape as an overt 'breaking out' of development into the exposed, open edge described above. In contrast to nearby housing at St Mary's Close, Church View and Loyal Close, the appeal proposal would crest over the ridgeline defining the edge of the valley at this point. New housing, even single storey, would be conspicuous and prominent in views from Redenhall Road to vehicle occupants and in particular, pedestrians moving slowly along the footway on the northern side of the road. The harmful landscape impacts identified above would be highly visible, significantly and permanently altering the experience of being in the countryside at this edge of Harleston.
 15. The appeal proposal would also conspicuously introduce development into the rural valley as experienced by footpath users moving slowly along the footpath extending north from Hallwong Lane (appellant LVIA points V3 and V2 in particular) on the opposite side of the valley. Although the new housing would be at moderate distance, there is little sense at these lower points nearer the valley floor of the townscape of Harleston beyond and so the rural character dominates. Landscaping may help assimilate the new housing to some degree, albeit over time, but for many years, because of the lack of any existing, meaningful landscape framework at the exposed appeal site, the development would result in an evident, raw urban edge to Harleston at this sensitive valley location.
 16. The experience of the public footpath along the eastern boundary of the appeal site would also adversely change. The path has a transitional character passing directly alongside housing to the south of the appeal site before passing through open fields and down the valley side. As such, when heading north (appellant LVIA point V6) the housing at Church View is largely behind

pedestrians and so the primary view or focus of users of the path is towards the crest of the ridge and a sense of what could be beyond. It is predominantly a rural outlook and sense of edging into a valley. This would be fundamentally lost as a result of the appeal proposal. Even when allowing for peripheral landscaping and the potential layout of gardens backing onto this path the rural, open valley side experience of the path would be harmfully eroded.

17. As set out in the representations from Redenhall with Harleston Town Council, the recently adopted RHNP seeks to protect the “visual scenic beauty of the landscape and countryside” outside of the defined settlement boundary. In particular the RHNP identifies a number of “town gateways” which have been identified as locally important “soft” areas of transition from rural to urban. The eastern approach from the A143 roundabout at Redenhall into Harleston along Redenhall Road at the appeal location is identified as town gateway No.5³. This is also identified as viewpoint 5 in the appellant’s LVIA. As set out above the likely extent of cutting away and reprofiling the verdant roadside edge to create a safe access into the site and the resultant urbanisation of rising land on the rural valley edge would harmfully erode any sense of the soft transition which the RHNP is seeking to preserve at this entrance to the town.
18. I therefore conclude that the appeal proposal would have a significantly harmful effect on the character and appearance of the surrounding area. It would be contrary to Policy 2 of the Joint Core Strategy⁴ (the JCS), Policies DM3.8 and DM4.5 of the SNLP⁵ and Policy RWH19 of the RHNP. Collectively these policies seek to maintain local distinctiveness, including taking account of landscape character and, specifically, the landscape characteristics of river valley character types and the landscape setting of settlements including the urban/rural transition and the treatment of ‘gateways’. The proposal would also fail to accord with the National Planning Policy Framework (NPPF) at paragraphs 174 b) and 130 c) which instruct, respectively, that the intrinsic character and beauty of the countryside should be recognised, and development should ensure that it is sympathetic to local character, including, amongst other things, the landscape setting.

Access from Redenhall Road

19. As set out above the planning permission applied for is in outline with all matters reserved except for access. There are no plans before me showing in any detail the arrangement for connecting to Redenhall Road. The transport assessment accompanying the planning application focuses on sustainable links rather than technical access arrangements. The appeal process has not elicited any further plans or technical evidence on matters of access.
20. The indicative site layout plan [drwg no. 5571 Rev A] shows a point described as being advised by the appellant’s highway consultant as being constructed to Local Highway Authority (LHA) standards. Visibility splays are delineated on this plan but I have limited information that the measurements shown would be the actual requirements having regard to the speed limit (which at the appeal site changes from 30mph to the national speed limit) and traffic behaviour including any speed count data given the alternating, sweeping curvature of the highway alignment on this part of Redenhall Road. The data

³ Shown on Figure 19, Appendix A to Redenhall with Harleston Town Council appeal submission

⁴ Joint Core Strategy for Broadland, Norwich and South Norfolk 2011 (amendments adopted 2014)

⁵ South Norfolk Local Plan – Development Management Policies Document, Adopted 2015

requested by the LHA at the planning application stage was reasonable in my view, given access was not a reserved matter.

21. I observed that Redenhall Road at the appeal site has a particularly sinuous alignment as it follows the contours of the valley at this point. The highway edge is open verge but it is embanked reflecting the rising land levels of the appeal site. Whilst I can only treat the layout plan as indicative it would appear that to achieve sufficient visibility splays would require extensive re-profiling (cutting away and lowering land levels) of that part of the appeal site closest to Redenhall Road. I have expressed above my significant concerns regarding the impact of this in landscape and town setting terms.
22. I note that the Local Highway Authority (LHA) at the time of the planning application considered the principle of accessing onto Redenhall Road to be acceptable in highway terms. The LHA says in its representations on the appeal that details relating to access could be secured by condition. The LPA has also taken this into account and no longer sustains, as part of the appeal, its third reason for refusal. I have some difficulty with this approach in that I have insufficient detail or assurance that an appropriately safe form of access can be secured onto Redenhall Road that would strike a balance between the LHAs requirements and the LPAs concerns regarding character and appearance. In summary, I cannot conclude that such a condition, as provided by the LPA with their appeal statement⁶, can be satisfactorily discharged and so would not be sufficiently precise and reasonable in all other aspects.
23. I therefore conclude that the absence of details for a technical matter, which is not reserved for future consideration, would not be a satisfactory approach in this instance. As set out above a condition deferring details would not meet the tests at paragraph 56 of the NPPF. Consequently, the proposal would be contrary to Policy DM3.11 of the SNLP in that permission has been applied for a detailed matter with insufficient evidence to demonstrate both, that the proposal would not endanger highway safety and that the highway network would continue to function satisfactorily at this location.

Other Matters

24. Harleston is set out in the spatial strategy as a 'main town', and so a sustainable location for new housing and employment growth. The appeal site is located in countryside, outside of the development boundary for Harleston for the purposes of the adopted development plan. Policy DM1.3 of the SNLP seeks to carefully manage development to secure a sustainable pattern of development including on allocated sites within development boundaries. As a starting point the appeal proposal would be contrary to part 1 of the policy. Part 2 c) of the policy allows for development outside of the settlement boundary where it comprises a type of development requiring a countryside location. The appeal proposal would not meet this requirement. The final part of Policy DM1.3 at 2 d) allows for developments outside of settlement boundaries where it "otherwise demonstrates overriding benefits in terms of economic, social and environment dimensions as addressed in Policy 1.1". I return to this in the balance section below but note that the context in the SNLP for part 2d) of Policy DM1.3 references "exceptional circumstances" and a strong imperative as part of the environmental dimension to protect the rural character of South Norfolk. On this basis I share the assessment of my

⁶ Proposed Highways condition (i) appended to LPA appeal Statement

colleague in the Long Stratton appeal⁷ that there is a high bar to what constitutes “overriding benefits” for the purposes of this part of Policy DM1.3.

25. The LPA is at an advanced stage of preparing a new development plan which is currently at examination. The appeal site was considered as part of that process and was not taken forward as a proposed allocation. It is not for me as part of this appeal proposal to re-run the site selection process undertaken for the emerging Greater Norwich Local Plan (eGNLP) including comparison with land south of Spirkett’s Lane. The eGNLP allocates sites at the edge of Harleston, including large greenfield sites away from the river valley landscapes that will deliver significant growth over the new plan period. Accordingly, the LPA is positively planning for housing growth in Harleston in accordance with the NPPFs requirements on plan-making and boosting the supply of homes. I therefore give moderate weight to the emerging plan in terms of its advanced stage and the solidifying certainty it is giving to communities on the location of housing growth in Harleston as part of a planned system. The appeal proposal would comprise a large, greenfield windfall site, the scale and location of which should ordinarily be a matter for the plan-making process. As such the appeal proposal would result in significant harm by virtue of comprising a major development on non-allocated land which has recently been discounted as part of plan-making, including public consultation. It was not allocated as part of the recently adopted RHNP with the Town Council advising that given the proposed allocations in the eGNLP further peripheral land releases were not considered necessary in the RHNP to meet identified housing needs.
26. There is no dispute that since the LPA made its decision it cannot currently demonstrate a five-year supply of deliverable housing land, despite having a healthy land supply position in 2021. The LPA asserts this is only a temporary “short-lived” situation arising from particular circumstances generated by the need to establish strategic solutions to nutrient neutrality for development proposals to achieve a positive HRA outcome. Whatever the duration of the LPAs housing land supply deficit, this appeal is being considered at a time when there is not a required deliverable supply. Harleston is not a location affected by the nutrient neutrality issue and the LPA has provided details of other major housing developments either recently completed, under construction in the town, or where applications are now forthcoming on proposed allocations. As such Harleston is a location where new homes can be delivered in the short to medium term.
27. In this regard the appellant has directed me to evidence in the LPA’s Housing and Economic Land Availability Assessment (HELAA) to demonstrate that the appeal site is suitable, available and deliverable. Whilst the HELAA is not a policy document and does not determine whether land should be allocated for development I nonetheless acknowledge that it is evidence to confirm that the appeal site could deliver in a timely fashion. As such I give appreciable weight to the social and economic benefits of housing delivery associated with this appeal proposal.
28. As set out above, the appellant has submitted a S106 agreement as part of the appeal which would provide planning obligations in relation to the provision of affordable housing, public open space and mitigation in relation to the GIRAMS.

⁷ Appendix 8 to LPA appeal Statement, reference APP/L2630/W/18/3215019

The obligation relating to affordable housing would provide for 40% of the total homes to be affordable and the details to be secured via a scheme to be approved by the District Council on a mix of 75% affordable rent and 25% intermediate housing. The obligation would also give priority, through a recognised cascade approach, to residents of South Norfolk and of Harleston in particular. The LPAs appeal statement confirms that based on latest Strategic Housing Market Assessment evidence, major housing developments should provide 28% affordable housing. On this basis I find the appeal proposal would accord with the requirements of SNLP Policy DM3.1 in meeting housing needs. The provision of 40% affordable housing, particularly at a time of a lack of deliverable housing land supply and as a notable over-provision on the 28% currently sought by the LPA, would be a social benefit of significant weight in favour of the appeal proposal.

29. The S106 agreement also contains an obligation to secure public open space on-site and potentially off-site in lieu of any deficiency together with funding towards maintenance. There is little before me other than to suggest that open space provision would meet the demands arising from the appeal proposal in order to meet the requirements of Policy DM3.15 of the SNLP and the provisions of the LPAs Supplementary Planning Document on Guidelines for Recreation Provision in New Residential Development (2018). As such the public open space secured would be of neutral weight in any planning balance.
30. As set out above, there have been material changes in circumstance since the LPA made its decision such that new housing developments will give rise to a likely significant effect on various protected habitats in Norfolk due to increased recreational pressure. In respect of the evidence before me in the GIRAMS, Harleston falls in the zones of interest for the Broads, Valley Fens and East Coast with regards to recreational disturbance. As the competent authority for the purposes of the Habitats Regulations at this stage of decision-making I am required to carry out an appropriate assessment as part of the HRA. This requires, amongst other things, a consideration of whether the recognised harmful effects arising from recreational disturbance can be avoided through mitigation. The GIRAMS provided by the LPA, which has involved the input of Natural England, identifies mitigation in the form of a tariff type payment on a per property basis. The S106 contains an obligation to make the necessary payment (index linked) and for this to be paid prior to any commencement of development. The S106 would also provide for public open space. On this basis I conclude that likely significant effects arising from the appeal proposal in relation to recreational disturbance can be satisfactorily mitigated. Consequently, I have arrived at a positive conclusion of no harm on the integrity of the qualifying features of the affected habitats identified above.

Balance and Conclusion

31. The absence of a five-year deliverable housing land supply is a basis on which to conclude that development plan policies most important for determining the proposal are out-of-date, notably Policy DM1.3 of the SNLP. Paragraph 11d) of the NPPF states that in such circumstances decision making should be tilted to granting planning permission unless one of two caveats is engaged. In this case a positive HRA conclusion leaves the tilted balanced engaged and so the appropriate approach in this appeal is at paragraph 11d) ii) such that any adverse impacts should significantly and demonstrably outweigh the benefits. This approach is reflected in Policy DM1.1 of the SNLP.

32. In terms of the benefits, the proposed 110 dwellings, including 40% of these homes to be affordable, would be an appreciable social benefit at a time of a transitory absence of a five-year housing land supply at an advanced stage of plan-making. There would also be an appreciable economic benefit in terms of construction and new resident expenditure in the local economy. There would also be a moderate benefit in terms of increased "Council revenues" (assumed to be either Council Tax and/or New Homes Bonus). The appeal site is sustainably located, being within walking and cycling distance of facilities in Harleston, which would amount to a moderate environmental benefit.
33. The proposal would also provide for public open space and would be accompanied by an obligation to secure habitat mitigation to avoid harm. These are requirements necessary to make the development acceptable in planning terms and so neutral in the balance rather than benefits of any weight. It is asserted that the proposal would improve the public footpath along the eastern boundary of the site. I observed that this is a well-used rural path. Accordingly, I give only minimal positive weight to any benefit from measures such as widening and re-surfacing the path for all users. The provision of a footpath along the Redenhall Road is of no material wider public benefit given a made footway exists along the north side of this highway.
34. On the other side of the balance, the appeal proposal would result in significant harm to the river valley landscape of the Starston Beck with attendant visual harm arising from the incursion of development into open, exposed countryside which landscaping would do little to effectively mitigate in the short-to-medium term with residual visual harms persisting beyond the usual 15 year assessment period. The proposal would also significantly harm an identified gateway location to the town, eroding the soft transition from rural to urban including the re-profiling of the rising landform along Redenhall Road. The proposal would also result in some limited harm arising from the absence of details for a matter which is not reserved for later consideration in terms of any certainty of securing a safe and suitable access to the public highway network compatible with the character of the surrounding area.
35. Additionally, the proposal would be outside of established and emerging development limits for Harleston and so would be contrary to the adopted plan, the emerging GNLP and the recently adopted RHNP. Consequently, the appeal proposal would give rise to a significant harm in terms of being contrary to recent and well-advanced plan-led processes for releasing peripheral greenfield housing development at Harleston intended to give certainty for local communities and infrastructure providers. Whilst the absence of a deliverable housing land supply renders Policy DM1.3 'out-of-date', the policy still has weight in decision-making. Having been adopted in the context of the NPPF and broadly consistent with the NPPF on rural housing and the natural environment, the harm arising from the conflict with DM1.3 should still carry significant weight in a plan-led system. Furthermore, as set out above, the RHNP has been recently adopted and in this context, I turn to paragraph 14 of the NPPF. On the limited evidence before me I cannot be entirely certain that all four criteria at paragraph 14 are satisfied but the conflict with at least criteria (a) and (c) reaffirms my assessment that significant harm would arise from allowing a major housing development at the appeal location in conflict with the very recently adopted RHNP.

36. Cumulatively, the significant harm to the landscape and the setting of Harleston, the limited harm from uncertain highway details and the significant harm from the conflict with the development plan, including the recent RHNP, would significantly and demonstrably outweigh the benefits identified. As such the appeal proposal would not amount to sustainable development to which there is a presumption in favour of. Nor would the proposal amount to providing “overriding benefits” in accordance with part 2d) of Policy DM1.3 of the SNLP. On this basis the appeal would be also contrary to Policy DM1.1 of the SNLP.
37. I have taken account all other matters raised, but there is nothing that leads me other than to conclude that the appeal be dismissed for the reasons given.

David Spencer

Inspector.