



Appeal Decision

Inquiry held on 17 & 18 October 2023

Site visit made on 18 October 2023

by Sarah Housden BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20/11/2023

Appeal Ref: APP/F3545/W/23/3324114

The Plough Inn, 62 The Street, Icklingham, Bury St Edmunds, Suffolk, IP28 6PL

- 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 Elveden Farms Limited against the decision of West Suffolk Council.
 - The application Ref DC/19/2145/OUT, dated 28 October 2019, was refused by notice dated 16 December 2022.
 - The development proposed is Demolition of existing extensions to existing Public House, change of use of Public House (Use Class A4) to two three bedroom houses (Use Class C3) and erection of 2no. four bedroom houses, 3no. three bedroom houses and 2no. two bedroom house, and associated landscaping and car parking.
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Decision

1. The appeal is allowed and outline planning permission is granted for (means of access to be considered) (i) Conversion works to public house (class A4) to create 2 no. dwellings (class C3) (following demolition of existing extensions); (ii) construction of 7 no. dwellings and (iii) associated landscaping and car parking (previous application DC/17/0630/OUT), at The Plough Inn, 62 The Street, Icklingham, Bury St Edmunds, Suffolk, IP28 6PL in accordance with the terms of the application, Ref DC/19/2145/OUT, dated 28 October 2019, (and the plans submitted with it), subject to the conditions set out in the attached schedule.

Costs

2. An application for an award of costs was made by Elvedon Farms Limited against West Suffolk Council. An application for an award of costs was also made by West Suffolk Council against Elvedon Farms Limited. Those costs applications are the subject of separate decisions.

Preliminary Matters

3. The description of the proposed development in the banner heading above is taken from the planning application form. With the appellant's agreement, the description was amended during the determination of the planning application to reflect that the works to the public house would constitute a conversion rather than a change of use, and that the means of access is to be determined as part of the proposal. Since it is a more accurate description of the proposed development, I have used the revised description in my formal decision in paragraph 1 above.

4. The appeal seeks outline planning permission with all matters reserved for later approval apart from the means of access. Plans showing an indicative site layout (Drawing No 5128 PA01 Revision G), indicative street elevation (Drawing No 5128 PA02 Revision A), indicative site section (Drawing No 5128 PA05 Revision A) and a landscape strategy (Drawing No E16841-TLP-001) accompanied the application. These show the location of the access road into the site, the general layout of the new dwellings in relation to the existing public house, indicative ridge heights for the new dwellings on plots 3, 4, 7, 8 and 9 and areas of open space. I have treated those plans as a guide to how the site might be developed, were the appeal to succeed.
5. A completed planning obligation by Unilateral Undertaking pursuant to section 106 of the Town and Country Planning Act 1990 dated 18 October 2023 (the UU) was submitted at the Inquiry. However, as the site plan did not differentiate between the red and blue lines, the Council concluded that the UU had not been properly executed. I therefore gave the appellant an opportunity to correct this point before the close of the Inquiry in writing, and a revised UU dated 24 October 2023 was submitted. I am satisfied that the UU has now been properly executed in accordance with section 106. I deal with it later in this decision.
6. At the case management conference held online on 15 August 2023, I indicated that the main issue in this case should be dealt with by the formal presentation of evidence and cross examination and that the 'other matters' would be dealt with through a roundtable discussion. However, at the Inquiry the parties proposed that the main issue should also be dealt with by means of a roundtable discussion, in the light of the Council's revised position on the appeal which is explained further below, and the updated evidence. I considered the representations made by the parties and agreed that the Inquiry could proceed on that basis.
7. A list of Core Documents was prepared by the appellant and they are referenced 'CD' throughout this decision.
8. A previous appeal on the site for the same development as the appeal proposal was dismissed in 2020¹. I have had regard to that decision only in so far as it is relevant to my assessment of the main issue in this case.
9. An Environmental Impact Assessment (EIA) Screening Direction dated 24 July 2023 confirms that EIA is not required for the appeal proposal.
10. A revised National Planning Policy Framework (the Framework) was published on 5 September 2023. At the Inquiry, it was agreed by the main parties that the revisions do not have any implications for the determination of this appeal.
11. I made an informal visit to the appeal site and to the surrounding area on 16 October 2023. Accompanied by the main parties, I made a further visit to the site and to the nest plot locations A, B and C shown on ID13, which form part of the offsetting proposals submitted by the appellant, in the event that those measures were required.

¹ Appeal ref APP/H3510/W/19/3233802

Background and Main Issue

12. Icklingham is identified as a secondary village in the Forest Heath Local Development Framework Core Strategy Development Plan Document (2010) (the CS), where nominal growth will be supported in accordance with Policy CS1. As such, there is no objection to the principle of the appeal development.
13. The single reason for refusal in this case refers to the adverse effects of the proposal on the Breckland Special Protection Area (the SPA), including that the proposed offsetting measures would be compensatory rather than mitigatory or preventative in their effect, and in addition, that the proposed measures would not be effective. The decision notice cites conflict with CS Policy CS2 and Policies DM10, DM11 and DM12 of the Joint Development Management Policies Document (2015) (the DMPD) and with paragraph 174 of the Framework.
14. Discussions between the main parties, and in conjunction with Natural England, continued following the refusal of outline planning permission and the appellant submitted a revised Information for Habitats Regulations Assessment (IHRA) (CD7.2) with the appeal. Before the opening of the Inquiry, the Council confirmed through two officer decision records (CD6.1 & 6.2) that it no longer intended to defend the reason for refusal. Based on the revised IHRA and its own legal advice, the Council's updated position is that the appeal proposal would not have a likely significant effect on the SPA acting alone or in combination with other plans and projects, and that the appellant's proposed off setting measures do not need to be secured in order to satisfy the requirements of the Conservation of Habitats and Species Regulations 2017 as amended (the Habitats Regulations).
15. Based on the Ecology Statement of Common Ground (CD10.2), it is common ground between the parties that there would be no likely significant effect from the proposal acting alone or in combination with other plans or projects. The remaining area of disagreement relates to the effectiveness of the appellant's proposed offsetting measures, in particular whether any of the proposed nest plots at locations A, B or C would be appropriately located so as to provide certainty in terms of their effectiveness.
16. Whilst not represented at the Inquiry, Natural England maintained through its updated responses² that a likely significant effect from the proposal acting in combination with other plans or projects could not be ruled out. In my role as the 'competent authority', I must reach my own conclusion based on the evidence before me as to whether a significant effect is likely, whether an appropriate assessment (AA) is necessary and whether mitigation would be necessary to offset any identified harm to ensure that there would be no adverse effect on the integrity of the SPA.
17. In that context, the main issue in this case is the effect of the proposed development on the SPA, having particular regard to:
 - whether the proposal is likely to have a significant effect on the SPA alone or in combination with other plans or projects; and
 - if a likely significant effect cannot be ruled out, whether the proposed development would have an adverse effect on the integrity of the SPA.

² 11 September 2023 (CD14.4) and 2 October 2023 (CD14.13)

Reasons

Assessment of Likely Significant Effect

18. The SPA contains component Sites of Special Scientific Interest (SSSI) which support populations of nightjar, woodlark and breeding stone curlew which are of European importance and protected by the Habitats Regulations. The SPA's conservation objectives are to ensure that its integrity is maintained or restored as appropriate, and that it contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring:

- The extent and distribution of the habitats of the qualifying features;
- The structure and function of the habitats of the qualifying features;
- The supporting processes on which the habitats of the qualifying features rely;
- The population of each of the qualifying features; and
- The distribution of the qualifying features within the site.

I have had regard to these objectives in undertaking my duties in accordance with the Habitats Regulations.

19. Research³ indicates that there is a reduction in the density of stone curlew nests within a distance of approximately 1500 metres from settlements. It also indicates that stone curlew are sensitive to urban edge effects, residential development and recreational disturbance, all of which may adversely affect nest density. Nesting stone curlew are also likely to actively avoid buildings.

20. Informed by the above research, CS Policy CS2 states that new built development will be restricted within 1500 metres of the components of the SPA designated for stone curlew and the policy requires a project level HRA for development within that zone.

21. DMPD Policy DM11 seeks to prevent development which would have an adverse impact on protected species unless there is no alternative, or suitable measures have been taken to reduce disturbance to a minimum and to maintain the population identified on site or to provide adequate alternative habitats.

22. Icklingham is a predominantly linear village running along the A1101 and West Street and it is completely surrounded by the SPA and its 1500 metres buffer zone. Component SSSIs including Cavenham Heath, Breckland Forest and Deadman's Grave are in close proximity to the village. The Icklingham settlement boundary runs along the existing pub's south elevation and along the rear boundary of the pub garden to the west. The existing entrance and car park are outside the settlement boundary, but the converted pub building and the seven new dwellings proposed would be within the settlement boundary.

Woodlark and Nightjar

23. The appeal site is located 800 metres from the Breckland Forest SSSI, a component part of the SPA which is used by woodlark and nightjar. However, it is beyond the 400 metres buffer zone around the SSSI and the semi-natural

³ Further assessments of the relationship between buildings and stone curlew distribution Footprint Ecology (CD9.3) and Clarke, R.T., Liley, D., Sharp, J.M. & Green, R.E. (2013) Building Development and Roads: Implications for the Distribution of Stone Curlews across the Brecks.

habitat which is used by these species, and consequently there would be no likely significant effect on these species from the development acting alone.

24. The appeal site is also within the 7.5km distance from the Breckland Forest SSSI within which in combination effects on woodlark and nightjar from increased recreation activity should be considered. The officer report indicates that the 'Accessible Natural Greenspace Study' sets out a strategy focused on the larger main settlements to avoid and reduce any in combination effects arising from increased recreation pressure. The Council is satisfied that due to the location of the site away from those settlements, a contribution to the strategy would not be necessary or reasonable in this case, and I see no reason to disagree with that assessment.
25. Overall, therefore, I conclude that there would be no likely significant effect on the qualifying species of woodlark or nightjar from the development during the construction or operational phases, either alone or in combination with other plans or projects. In coming to that conclusion, I have also had regard to Natural England's position⁴ that there would be no likely significant effect on those species.

Stone Curlew

26. The Stone Curlew Planning Tool (SCPT) developed by Natural England is an Excel workbook designed to model the change in the number of stone curlew nests in an area, following changes in the amount of built development in that area, based on the research referred to above. The SCPT was run for the proposed development and predicted that 0.04 nests per year would be lost, through additional avoidance of Icklingham village following completion of the development, or 1 nest every 25 years. It is common ground between the parties, and it is also Natural England's position⁵, that a displacement of 0.04 nests would not have a likely significant effect on the SPA from the development alone and there is nothing in the evidence that leads me to disagree with that conclusion.
27. However, the extent of the area to which any in combination assessment should apply is a matter of dispute in this appeal. The appellant's position is that the relevant area would be that falling within a 1500 metres radius from the Icklingham settlement boundary. Based on this, the only proposal that could act in combination with the appeal development would be the undetermined planning application reference DC/20/0377/FUL for the conversion of two dwellings to one, and one additional dwelling and garage at Nos 7 – 9 The Street, Icklingham. Natural England's letter of 16 April 2021 indicates that the appeal proposal would not have a significant effect on the SPA in combination with DC/20/0377/FUL and on that basis, the appellant concludes that there would be no likely significant effect on the SPA from the development in combination with other plans or projects.
28. However, Natural England is concerned about the potential accumulation of high numbers of small impacts which could result in an overall decrease in nest density in multiple locations across the SPA. Such a decrease would be contrary to the SPA's conservation objective to maintain the extent and distribution of the habitats of the qualifying features which include stone curlew. There is

⁴ Natural England letter 2.10.23 CD 14.13

⁵ Natural England letter 16.4.21 CD 5.8

currently no strategic solution in place to address and mitigate these in combination effects. Natural England's position is that any in combination assessment should apply not just to a 1500 metres buffer around Icklingham, but to an area including the SPA and its 1500 metres buffer.

29. That would cover a very extensive area. Based on Natural England's advice⁶, it would be necessary to gather the details of development underway but not yet completed, extant planning permissions, undetermined planning applications and appeals, draft plans being prepared by any public body and reasonably foreseeable proposed plans. It would be necessary to assess whether there would be a likely significant effect on the SPA from the proposed development acting in combination with the schemes referred to above. Put simply, that 'SPA wide' data is not before me as part of this appeal.
30. I recognise that the position taken by Natural England differs from the position that was taken in relation to planning application reference DC/22/0554/FUL for the development of two dwellings on the village hall site at Tuddenham. Based on Natural England's advice, the officer report in that case concludes that the project would not have a likely significant effect in combination with other projects. However, that proposal was for the redevelopment of a site containing an existing building, where there would be no net increase in the footprint of built development within the settlement boundary.
31. Natural England's advice for planning application reference DC/22/1386/FUL for one dwelling at Risby⁷ was that there was considered to be a likely significant effect. However, due to the scale, placement and nature of the development it was considered to be below the threshold to act in combination with other development in relation to the residential impact pathway, provided that the footprint of the new building would be less than, or equal to, the footprint of the building to be demolished.
32. The appeal proposal would result in approximately 312 square metres (sqm) (net) of additional building footprint within the Icklingham settlement boundary. Therefore, it is not directly comparable with either the Tuddenham or the Risby case. Based on the increase in the built footprint within the appeal site, which the research indicates stone curlew are sensitive to, the extent of the SPA and its buffer zone area and the likely totality of development proposals and plans within it, my conclusion is that a likely significant effect from the appeal proposal in combination with other plans and projects cannot be ruled out.
33. Regulation 63(1) of the Habitats Regulations requires that a competent authority, before deciding to give any consent to a project which is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), and is not directly connected with or necessary to the management of that site, must make an AA of the implications of the plan or project for that site in view of that site's conservation objectives. Therefore, as the competent authority for this decision, I must undertake an AA in order to comply with the Habitats Regulations.

⁶ Natural England letter 11.9.23 CD14.4

⁷ Appellant's Ecology Statement of Case Appendix 8 letter dated 19 August 2022

Whether or not there would be an adverse effect on integrity

34. The proposed development would not result in the direct loss of habitat within the SPA or its 1500 metres buffer which supports the qualifying features. The location of stone curlew nests within 1500 metres of Icklingham for the period 2014 – 2019 is set out in the latest IHRA and shows that there have been no nests within the first 500 metres band over that period.
35. Whilst the SCPT is an important model designed to predict the change in the number of stone curlew nests in an area following development, Natural England advises that an HRA should consider all the possible relevant impact pathways and their magnitude, which could occur during both the construction and operational periods of the proposed development.
36. Set within that broader context, the potential risks during the operational phase of residential development are identified by Natural England⁸ as being the visual disturbance caused by an increase in built development, noise and light pollution and associated traffic from the development, increased recreational disturbance and predation of ground nesting birds by domestic pets. In my AA, I am able to consider conditions or other restrictions which could secure mitigation of any harm identified in relation to these risks.
37. Dealing firstly with visual disturbance, the appeal site is occupied by the existing two storey pub building and a large car park. It is viewed in conjunction with the existing dwellings Church Cottage and Shoemaker to the east of the A1101 and with Nos 52 and 54 The Street to the north of the site. The new build dwellings would increase the presence of built development on the site, and plots 5 – 9 would extend the built-up area of the village to the south-west. This could increase the risk of visual disturbance to nesting stone curlew. However, the scale of development would be limited in relation to the size of the settlement as a whole. The site is clearly demarcated from the adjoining grazing field by a post and rail fence and by mature trees and shrubs in the south-west corner. Details of additional planting at the reserved matters stage to re-inforce this boundary could be secured by means of a condition.
38. The tree lined banks of the River Lark to the south-west of the adjoining grazing field would provide further visual separation between the new development and the arable land to the south-west of the village where the presence of stone curlew nests has been recorded in the IHRA. The A1101 and the presence of intervening development would provide visual separation between the development and the arable fields on the higher valley sides to the south-east of the village where stone curlews have also nested.
39. Overall, I conclude that due to the limited net increase in the presence of built development, its location within and adjacent to the existing built-up area and its visual containment, the visual disturbance would be limited and would be restricted to a very localised area immediately around the site. It would not lead to wider visual effects that could dissuade birds from nesting in the arable fields to the south-west and south-east of the village, and nor would it be likely to cause an adverse effect on the SPA in combination with other planned development in the SPA and its buffer zone as a whole.

⁸ Natural England letter 2 October 2023 (CD14.3)

40. Turning to noise disturbance, the proximity of the site to the A1101 means that there is already background noise and disturbance from moving traffic, including HGVs. The additional noise and disturbance generated by the vehicle movements from nine dwellings, over and above existing noise levels, would be limited. The site is not in an isolated or countryside location where the introduction of new development in proximity to existing nest sites would represent a new source of noise and disturbance that would dissuade nesting opportunities.
41. There is street lighting along the A1101, and together with lighting from existing dwellings, there is an existing level of illumination at night. Some degree of additional illumination from the new dwellings would be inevitable, but luminance levels from lighting along the access road and any other public areas could be controlled by means of a condition to secure details of external lighting within those areas at the reserved matters stage.
42. In terms of recreational disturbance, the Public Right of Way (PROW) through the existing pub car park and down to the River Lark would be retained as part of the development layout. It is likely that there would be a degree of additional use of this PROW given its proximity to the new dwellings. However, the route is well marked and managed and access to the River Lark bank is via a well maintained stile. Other PROWs run from West Street to Cavenham Heath, to the north-east towards Deadman's Grave and along the Icknield Way to the south-east. However, at the time of my site visit they were well way-marked and managed. There is nothing in the evidence to suggest that increased use of the PROWs by residents of the development would lead to indiscriminate access beyond the defined routes which could result in greater disturbance to, and predation of, stone curlew.
43. In terms of the risk of disturbance during construction, Natural England has advised that no construction work should be carried out during the stone curlew nesting season, or, alternatively, that a survey should be carried out before works commence to establish whether nests or breeding pairs are present within 500 metres of the site. I consider that the latter would be a proportionate approach to avoid an adverse effect on stone curlew and can be secured by means of a condition.
44. Overall, and subject to the imposition of conditions, I conclude that the proposed development would not adversely affect the nesting density of stone curlew arising from visual disturbance, noise and light pollution and recreation disturbance during the operational phase. A condition can be used to ensure that there would be no adverse effect during the construction phase. Accordingly, it can be concluded beyond reasonable scientific doubt that there would be no adverse effect on the integrity of the SPA. In these circumstances, no mitigation is required. Having reached this conclusion, it follows that the UU's obligation to provide one nest plot does not meet the test of necessity set out in the Community Infrastructure Regulations regulation 122. In accordance with paragraph 12 of the UU, the UU ceases to have effect.
45. My conclusion above differs from the previous appeal in which the Inspector concluded that mitigation would be necessary. However, in that case the calculations relating to the increase in building footprint through the SCPT were undertaken differently, resulting in a potential displacement of 0.42 stone

curlew nests. That is materially different from the displacement figure before me which has been calculated in accordance with the correct approach.

46. Regulation 70(3) of the Habitats Regulations requires that outline planning permission must not be granted unless the competent authority is satisfied (whether by reason of the conditions and limitations to which the outline planning permission is to be made subject, or otherwise) that no development likely to adversely affect the integrity of a European site or a European offshore marine site could be carried out under the permission, whether before or after obtaining approval of any reserved matters. I am satisfied that, with the imposition of the conditions in the attached schedule, that requirement has been met.
47. Leading up to the Inquiry, Natural England as the Statutory Nature Conservation Body was given adequate opportunities to respond to the information contained in the appellant's IHRA and to provide updated comments. This, together with the evidence of the main parties, has informed my AA. I therefore conclude that Regulation 63(3) of the Habitats Regulations has been met.
48. Overall, I conclude in relation to the main issue that the proposed development would not undermine the conservation objectives of the SPA and it would not adversely affect the integrity of the SPA or the qualifying features it possesses. As such, there would be no conflict with CS Policy CS2 nor with DMPD Policies DM10, DM11 and DM12.

Other Matters

Landscape

49. The site does not fall within any statutory landscape designation. Icklingham is located within The Brecks National Character Area and at a more local level, within the Estate Sandlands in the Suffolk Brecks Landscape Character Assessment. The appellant's Landscape and Visual Impact Assessment concludes that the residual effect on landscape character at year 10 would be minor moderate adverse, and I see no reason to disagree with that assessment. The details to be submitted at the reserved matters stage can include details of appropriate landscaping.

Heritage assets

50. The significance of the Grade 1 listed All Saints Church opposite the site derives from its high, architectural, historic, evidential and communal value and as an exquisite example of Medieval architecture and craftsmanship. Its elevated position and prominence within the village also contribute to its significance. From the PROW running through the appeal site, the view of the church through the gap between the pub and Nos 52 and 54 The Street would be partly obscured by the new dwellings, but due to the topography, the church tower would still be open to view from the PROW.
51. Historic England has no objection to the scheme provided that dwelling heights are restricted to maintain the prominence, and thereby the significance, of All Saints Church. Subject to a suitable condition, the significance of the church would be preserved and section 66 of the Planning (Listed Buildings and Conservation Areas Act 1990) is met. Although the two dwellings to the north of The Plough would infill the gap between the pub and Nos 52 and 54 The

Street (Grade 2), subject to appropriate dwelling heights and detailing there would be no harm to the significance of those listed properties. There is no intervisibility between the Civil War Sconce Scheduled Monument and the appeal site. The scheme would retain the historic form and elements of the Plough Inn and secure a new use for it and its significance as a non-designated heritage asset would also therefore be preserved.

Biodiversity

52. The EIA accompanying the appeal provided updated survey information about protected species, including bats. Subject to a Grampian condition requiring details of a bat licence before development commences, there would be no adverse effect on protected species. A condition requiring details of biodiversity enhancement as part of the reserved matters details is also appropriate to comply with CS Policy CS2 and DMPD Policy DM12.
53. All other technical details including the site access are satisfactory.

Conditions

54. I have considered the draft conditions submitted by the Council against the advice in paragraph 56 of the Framework, the Planning Practice Guidance and in the light of the discussions at the Inquiry. In the interests of precision and enforceability I have amended the proposed wording where appropriate.
55. Condition 1 is necessary to confirm the standard time limit for the approval of the reserved matters. For the avoidance of doubt, condition 2 confirms the list of reserved matters to be approved, and in order to preserve the significance of All Saints church as a designated heritage asset, it requires that the layout and height of the proposed dwellings shall generally accord with the parameters set out on Drawing Nos 5128 PA01 Revision G, and 5128 PA05 Revision A.
56. Conditions 3, 4 and 5 are necessary to protect water bodies, land and residents from potential pollutants. Condition 6 is required so that the hours of construction are specified to safeguard the living conditions of adjoining occupiers.
57. Conditions 7 and 8 are necessary to secure the investigation and recording of archaeology in the interests of the historic environment.
58. Condition 9 is necessary to secure a scheme of surface water drainage in the interests of guarding against potential flood risk.
59. In the interests of the safety of highway users, conditions 10, 11, 12, 13, 14, 16 and 17 are necessary to secure further details of the access road, construction of the road and footways to base course level, to ensure that the access conforms to the detail in Drawing No 5128 PA01 Revision G, to ensure satisfactory surfacing and drainage of the access road, to ensure adequate visibility and to manage vehicle movements and access during the construction phase. In view of my conclusion about the potential impact of lighting within my AA, I have added details of street lighting to be submitted as one of the reserved matters in condition 10.
60. Condition 15 is needed to secure a scheme for the disposal of waste in the interests of public health and highway safety. Condition 18 is necessary to provide facilities for electric vehicle charging in the interests of reducing

emissions. Condition 19 is necessary to ensure compliance with the Wildlife and Countryside Act 1981, the Conservation of Habitats and Species Regulations 2017 and DMPD Policies DM11 and DM12.

61. Condition 20 is needed to manage environmental impacts during the construction phase. Condition 21 is required to comply with DMPD Policy DM7 and ensure efficient use of water. Condition 22 is necessary to safeguard trees and hedges in the interests of visual amenity. Condition 23 is necessary to control the net increase in the building footprint at the reserved matters stage, in order to protect the integrity of the SPA. Finally, condition 24 is necessary to enhance biodiversity.
62. I am satisfied that the requirements of conditions 2, 3, 7, 9, 10, 14, 20 and 22 should be dealt with prior to development starting on the site and the appellant has confirmed their agreement to these conditions being complied with before development commences on site.

Conclusion

63. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations, which include the Framework, indicate otherwise. As I have concluded that there would be no adverse effect on the integrity of the Breckland SPA, paragraph 11(d) of the Framework is not engaged.
64. The location of the proposed development would accord with the CS spatial strategy and it would secure the beneficial re-use of the site. I also give moderate weight to the boost to the supply of housing. The proposal would accord with the development plan, read as a whole. The appeal is therefore allowed, subject to the conditions set out in the attached schedule.

Sarah Housden

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

David Cosgrove KC	Instructed by Clare Riches, West Suffolk Council
Gareth Durrant BA Dip TP	Senior Planning Officer
Jaki Fisher BSc MA PGDip CMLI	Senior Ecology and Landscape Officer

FOR THE APPELLANT

David Elvin KC	Instructed by Benjamin Arrowsmith, Roythornes Solicitors
Mark Buxton BSc (Hons) MRTPI	Senior Director of Planning, RPS Group
Nicholas Sibbett CEcol CEnv MCIEEM CMLI	Associate Director, The Landscape Partnership

INTERESTED PARTIES:

Councillor Victor Lukaniuk	
Councillor Andy Drummond	

DOCUMENTS SUBMITTED AT INQUIRY

		Submitted by
1	Revised draft Conditions submitted 17.10.23	Council
2	Supplement to Chapter 4 of the report by the Landscape Partnership 'Information for Habitats Regulations Assessment for Development at The Plough, Icklingham' of June 2023	Appellant
3	Opening statement by the Appellant	
4	Opening statement by the Council	
5	Council's Note in response to the Appellant's submission of the document 'Provision of stone-curlew nesting habitat at Lakenheath Warren' (document 2)	
6	European Site Conservation Objectives for Breckland Special Protection Area Site Code UK9009201 (Natural England) (2019)	Council
7	Location of Icklingham, the settlement boundary and the appeal site in relation to the Breckland SPA boundary, and the 1.5km buffer zone	Council
8	EC Directive 79/409 on the Conservation of Wild Birds Special Protection Area (SPA) including report on European Site Conservation Objectives: Supplementary advice on conserving and restoring site features for the Breckland SPA (Natural England)	Council
9	Response by the Appellant to West Suffolk Council's Inquiry Note (document 5)	
10	Further revised draft conditions (supersedes document 1)	Council
11	Decision notice planning application ref DC/21/2046/FUL	Council
12	Decision notice planning application ref DC/22/1647/FUL	Council
13	Appellant's plan ref EFL/SS/20231004 showing Plots A, B & C	Appellant
14	Unilateral Planning Obligation by Deed under Section 106 of the Town and Country Planning Act 1990 signed and dated 18.10.23	Appellant

15	Council's Closing Submissions	
16	Appellant's Closing Submissions	
17	Council's response to the Appellant's application for costs and reply to the Appellant's response	

DOCUMENTS SUBMITTED AFTER INQUIRY

		Submitted by
1	Appellant's response to the Council's responses to the Appellant's costs application	
2	Unilateral Planning Obligation by Deed under Section 106 of the Town and Country Planning Act 1990 signed and dated	Appellant

SCHEDULE OF CONDITIONS

1. Application for the approval of the matters reserved by condition 2 of this permission shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun not later than whichever is the latest of the following dates:-
 - i) The expiration of three years from the date of this permission; or
 - ii) The expiration of two years from the final approval of the reserved matters; or,
 - iii) In the case of approval on different dates, the final approval of the last such matter to be approved.
2. Prior to the commencement of the development, details of the appearance, landscaping, layout and scale (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority. The reserved matters shall accord with the Site Location Plan – Drawing No 5128 PA03 Revision A and shall generally accord with the dwelling height and layout parameters set out on Drawing Nos 5128 PA01 Revision G and 5128 PA05 Revision A. The development shall be carried out as approved.
3. Prior to the commencement of development, the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:
 - i) A site investigation scheme (based on the approved Preliminary Risk Assessment (PRA) within the approved Desk Study), to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - ii) The results of a site investigation based on i) and a detailed risk assessment, including a revised Conceptual Site Model (CSM).
 - iii) Based on the risk assessment in ii), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. The strategy shall include a plan providing details of how the remediation works shall be judged to be complete and arrangements for contingency actions.
4. None of the dwellings hereby permitted shall be occupied until a verification report demonstrating completion of the works as set out in the remediation strategy (approved as part of condition 3 of this planning permission) is submitted to and approved in writing by the Local Planning Authority.
5. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with

and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

6. Demolition or construction works shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:30 hours on Saturdays and at no time on Sundays, public holidays or bank holidays unless otherwise approved in writing by the Local Planning Authority.
7. No development shall take place on site until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority. The scheme of investigation shall include an assessment of significance and research questions; and:
 - a. The programme and methodology of site investigation and recording;
 - b. The programme for post investigation assessment;
 - c. Provision to be made for analysis of the site investigation and recording;
 - d. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - e. Provision to be made for archive deposition of the analysis and records of the site investigation;
 - f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation; and
 - g. A timetable for the site investigation to be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.
8. None of the dwellings hereby permitted shall be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 7 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
9. Prior to the commencement of development, details of a strategy for the design, implementation, maintenance and management of the disposal of surface water on the site shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall be implemented and thereafter managed and maintained in accordance with the approved details.
10. Prior to the commencement of development, details of the estate road (which shall exclude the access approved as part of this outline planning permission) and footpaths, (including layout, levels, gradients, surfacing, street lighting and means of surface water drainage), shall be submitted to and approved in writing by the Local Planning Authority.

11. No dwelling shall be occupied until the carriageways and footways serving that dwelling have been constructed to at least base course level or above in accordance with the approved details, except with the written agreement of the Local Planning Authority.
12. The new vehicular and pedestrian access shall be laid out and completed in all respects in accordance with Drawing No.5128 PA01 Revision G, with an entrance width of 5.5m. None of the dwellings hereby permitted shall be occupied until the access has been made available for use in accordance with the approved details. Thereafter the access shall be retained and maintained in the approved form.
13. None of the dwellings hereby permitted shall be occupied until the approved access onto the A1101 has been properly surfaced with a bound material for a minimum distance of 45 metres from the edge of the metalled carriageway. These works shall accord with details that shall have previously been submitted to and approved in writing by the Local Planning Authority.
14. Prior to the commencement of development, details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained thereafter in its approved form.
15. None of the dwellings hereby permitted shall be occupied until a scheme setting out the details of the areas to be provided for storage and presentation of refuse/recycling bins, including refuse vehicle tracking, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.
16. All HGV and construction traffic movements to and from the site over the duration of the construction period shall be subject to a Construction and Deliveries Management Plan which shall be submitted to the Local Planning Authority for approval a minimum of 28 days before any deliveries of materials commence. No HGV movements shall be permitted to and from the site other than in accordance with the routes defined in the Plan.

The Plan shall include:

- Routing for construction traffic;
- Means to ensure sufficient space is provided on-site for the parking and manoeuvring of all vehicles and storage of all materials and equipment; and
- Means to ensure no mud, water or other debris can egress onto the highway.

The site construction operator shall maintain a register of complaints and record of actions taken to deal with such complaints at the site office as specified in the Plan throughout the period of occupation of the site.

17. Before the access is first used by any vehicle (including construction vehicles), clear visibility at a height of 0.6 metres above the carriageway level shall be

provided and thereafter permanently maintained in accordance with the details shown on Drawing No 5128 PA01 Revision G. Notwithstanding the provisions of Schedule 2 Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.

18. None of the dwellings hereby permitted shall be occupied until all dwellings with off street parking (on plot private driveway or garaged/covered parking) have been provided with an operational electric vehicle charge point at reasonably and practicably accessible locations, with an electric supply to the charge point capable of providing a 7kW charge.
19. Demolition works or works to convert the existing buildings shall not in any circumstances commence unless the Local Planning Authority has been provided with either:
 - i) A licence issued by Natural England pursuant to the Conservation of Habitats and Species Regulations 2017 authorising the specified activity/development to go ahead; or
 - ii) A statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.
20. Prior to commencement of development (including demolition, ground works, vegetation clearance) a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
 - i) Risk assessment of potentially damaging construction activities;
 - ii) Identification of "biodiversity protection zones";
 - iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - iv) The location and timing of sensitive works to avoid harm to biodiversity features, including provision for carrying out a survey within 500 metres of the site by a qualified ecologist in advance of construction or demolition works commencing. If no stone curlew nesting activity is encountered, works can commence. If nesting activity is found, works shall not commence until the end of the bird nesting season (1st October), or earlier if verified by a further survey by a qualified ecologist;
 - v) The times during construction when specialist ecologists need to be present on site to oversee works;
 - vi) Responsible persons and lines of communication;

vii) The role and responsibilities on site of an ecological clerk of works (ECow) or similarly competent person; and

viii) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

21. None of the dwellings hereby permitted shall be occupied until the optional requirement for water consumption (110 litres use per person per day) in part G (G2) of the Building Regulations 2010 (or any Regulations revoking and re-enacting these Regulations with or without modification) has been complied with and evidence of compliance has been obtained.
22. Prior to commencement of development an Arboricultural Method Statement (including any demolition, groundworks and site clearance) shall be submitted to and approved in writing by the Local Planning Authority. The Statement should include details of the following:
 - i) Measures for the protection of those trees and hedges on the application site that are to be retained;
 - ii) Details of all construction measures within the 'Root Protection Area' (defined by a radius of $dbh \times 12$ where dbh is the diameter of the trunk measured at a height of 1.5m above ground level) of those trees on the application site which are to be retained specifying the position, depth, and method of construction/installation/excavation of service trenches, building foundations, hardstandings, roads and footpaths; and
 - iii) A schedule of proposed surgery works to be undertaken to those trees and hedges on the application site which are to be retained.

The development shall be carried out in accordance with the approved Method Statement unless agreed in writing by the Local Planning Authority.

23. The net increase in the building footprint (which shall include existing buildings, but shall exclude areas of hardstanding and outbuildings) proposed or included in any subsequent application/s for approval of reserved matters submitted under conditions 1 and 2 of this planning permission shall not exceed 312.25 square metres (measured externally).
24. None of the dwellings hereby approved shall be occupied until details of an ecological enhancement plan to enhance the nature conservation value of the site, post construction, together with a timetable for the implementation of the enhancement measures set out in the plan, has been submitted to and approved in writing by the Local Planning Authority. The plan shall thereafter be implemented and operated as approved and in accordance with the approved timetable.

END OF SCHEDULE