



Appeal Decision

Site visit made on 28 August 2024

By David Spencer BA(Hons) DipTP MRTPI

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

Decision date: 01 October 2024

Appeal Ref: APP/X3540/W/24/3342076

Land West of Public Right of Way (PROW) 21, Woods Lane, Melton, Suffolk

- 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 outline planning permission.
 - The appeal is made by Pelham Structures Ltd against the decision of East Suffolk Council.
 - The application Ref DC/23/4328/OUT, is dated 8 November 2023.
 - The development proposed is outline planning permission, with some matters reserved, with layout, scale, landscaping and access applied for in detail, for nine Self Build and Custom Build homes on Land North of Woods Lane, Melton.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Pelham Structures Ltd against East Suffolk Council. This application is the subject of a separate decision.

Procedural Matters

3. The application is made in outline but seeks approval at this stage of detailed matters including layout, scale, access and landscaping. I have assessed the appeal proposal on that basis, including the various plans submitted with the appeal. In this regard, I note that the scheme has been revised over time, with earlier plans presented to me as 'superseded'. This includes the earlier iteration that would have involved a right-hand filter turn into the site on Woods Lane, the footway widened to 3 metres (as a shared cycleway), the frontage hedge removed, and an island refuge crossing provided over Woods Lane. The latest layout plan before me¹ would retain the frontage hedging and provide an enhanced footway of 2 metres width. This layout plan has been subsequently amended (August 2024) to reflect further surface water drainage infrastructure but this does not fundamentally alter the layout proposed.
4. Whilst the Local Planning Authority (LPA) did not make a decision within the prescribed period, it has subsequently identified its main concerns as part of the appeal process. A number of these matters have been recently considered in a previous appeal on the site in 2022 (reference APP/X3540/W/21/3276418) for 27 self build/custom build dwellings (hereinafter referred to as the '2022 appeal'). The appellant's position is that they consider the revised scheme addresses various matters in the 2022 appeal decision such that on a fresh

¹ Drawing reference 562x0000 I

planning balance the outcome would weigh in favour of the proposal. The appellant has at various stages requested that this appeal be similarly determined by the Hearing procedure as the 2022 appeal. The principal matters in this appeal are relatively straightforward and there has only been moderate wider public interest. Accordingly, there has been no prejudice to any party in determining this appeal via the written representations before me.

5. At the start of the appeal process some technical matters remained in dispute. Matters in relation to highways and surface water drainage have been resolved following further technical evidence submitted during the appeal process and subject to the input of relevant consultees². Consequently, various conditions are now suggested were the appeal to be allowed.
6. The LPAs statement of case has identified the matter of surface water flood risk and the sequential test. I am satisfied that the appellant has had an appropriate opportunity to respond to this. Additionally, the appellant submitted on 10 September 2024 a recent appeal decision in Great Dunmow, Essex³ in relation to the matter of whether self-build/custom build housing should be subject to planning policy in respect of affordable housing. The LPA was given a fair opportunity to respond to this further evidence.
7. As part of the appeal, and after the LPAs Statement of Case, the appellant has submitted a signed Unilateral Undertaking (UU) containing obligations to secure the proposed dwellings as self-build / custom build homes and for financial contributions to mitigate likely significant effects arising from recreational disturbance on the qualifying features of proximate protected habitats. The LPA has had an appropriate opportunity to comment on the submitted UU and has identified some concerns with its content. I deal with the provisions in the UU in the decision below.

Main Issues

8. The main issues in this appeal are as follows:
 - (i) Whether the proposal would comprise self-build / custom build housing and if so, any requirements in relation to housing mix and affordable housing;
 - (ii) The development plan in respect of the principle of what is proposed having regard to its location;
 - (iii) The effect of the proposal on the character and appearance of the surrounding area; and
 - (iv) Whether a sequential test in relation to surface water flooding is necessary.

Reasons

Whether self-build/custom build?

9. Permission is sought for nine self-build and custom build homes. The description is reasonably flexible, reflecting that the appellant provides a model whereby the prospective plot purchaser can either build out the permission

² Including LPA statement re. drainage, dated 12 August 2024.

³ Reference APP/C1570/W/21/3282098, issued 9 September 2024

themselves or engage the appellant (or another developer] to construct the property on their behalf. To ensure that this would occur, there are provisions within the submitted UU to commit to the housing plots being constructed as self-build or custom build. Alternatively, any permission could be conditioned to require that notwithstanding the Use Classes Order the dwellings would not be constructed other than as self-build or custom build in accordance with the 2015 Act⁴.

10. Be that as it may, the LPA queries the degree to which the appeal proposal would meet any legal or planning definition of self-build or custom build, given the matters of detail which are sought to be established as part of the permission. The wording in the Planning Practice Guidance (PPG) at paragraph 57-016-20210208 says when considering whether a home is self-build or custom build, the initial owner of the home will have primary input into its final design and layout.
11. The PPG then goes on to say at paragraph 57-16a-20210208 that one of the benefits is that self-build and custom housebuilders choose the design and layout of their home and can be innovative in both its design and construction. It seems to me, that matters such as external appearance and internal layout are arguably primary inputs for those wishing to influence the design of their own home. It would still enable innovative approaches to be adopted in how the dwelling looks and functions and echoes the PPG wording of "final design and layout" (underlining is my emphasis). Even, limiting the primary design input to appearance and internal layout would be distinct from most housebuilding where such choices are largely determined by pre-set products for which the developer has already obtained full planning permission.
12. I note Policy SCLP5.9 of the Suffolk Coastal Local Plan 2020 (*the SCLP*) on Self Build and Custom Build Housing refers to serviced dwelling plots and plots more generally, but this is necessarily a relatively broad-brush policy. Accordingly, the LPAs recent Custom & Self-build Housing Supplementary Planning Document May 2024 (*the CSBHSPD*) is an important material consideration in this appeal and provides further detail to assist implementation of the policy.
13. The CSBHSPD champions the concept that such housing is distinct from other forms of housing in that it offers a greater degree of design freedom to help meet occupants' needs and desires and so help deliver a greater choice in the housing market. The CSBHSPD also helpfully sets out a spectrum to self-build and custom build housing. Paragraph 2.3 of the CSBHSPD states that homes built wholly or mainly to plans or specifications decided or offered by someone other than the initial occupant are not custom or self-build homes. The CSBHSPD nonetheless identifies that the lowest end of the range for custom build would be a "self-finish" or "shell home".
14. Table 1 of the CSBHSPD sets out what is described as "some common types of custom and self-build housing" including how they qualify as such. The table identifies that self-finish or shell-homes are a type of self-build and custom build housing. It states that the housing is built as a watertight shell by a developer, with the internal layout designed and finished by the initial occupant, including the location and design of internal walls and external

⁴ As found to meet the necessary tests in Appeal APP/R3650/W/22/3300262 (Appendix D to Appellant's final comments)

design customisation (e.g. materials). It does not indicate that the initial occupier should have had an input in matters such as layout (position within the plot) or scale of the shell of the dwelling.

15. Whilst I understand the LPAs concern that the details that would be approved at this stage in respect of layout and scale, including the proposed flat roofs, would remove a number of key inputs into the design of the dwellings, it nonetheless remains that on the LPAs own definition within its CSBHSPD that the appeal scheme would come in at the lower end of its spectrum of what would comprise custom build housing. Whilst there are relatively detailed plot plans before me, which are scaled and not described as 'indicative', they do not prescribe the final exterior design in terms of materials and openings. Additionally, I note the Design & Access Statement also contains considerable detail on scale and appearance. However, appearance would remain a reserved matter, which would be confirmed by condition. It could also be clarified by condition those matters that would remain to be determined and agreed with the LPA notwithstanding the detailed plans submitted for approval at this stage. As such I find the appeal proposal would constitute a "self-finish" or "shell home". Through the submitted UU, or by condition, the scheme could be enforced as a custom build scheme, eligible to, and undoubtedly of interest to, some on the Local Authorities' register. Additionally, I find no inherent conflict with SCLP Policy SCLP11.1 in terms of the degree to which the design of the individual dwellings would be established at this outline stage and the quality of the proposed dwellings.
16. There is no dispute that there is a significant unmet need between those on the local authorities' register and the number of suitable permissions to meet that need. The LPA on its figures acknowledges an unmet demand for 235 plots. The appellant submits that demand has historically been in a range of between 249 and 394 plots, with a duty on the LPA to have granted 445 permissions by 30 October 2023. Either way, this indicates that the approach in the SCLP at Policy SCLP5.9 is not yet yielding the number of serviced plots on larger sites or smaller, individual windfalls schemes within settlement boundaries to meet the level of registered interest. The LPA also acknowledges that the figure of 235 plots may not reflect the full extent of the demand for self-build and custom build. The evidence points to Woodbridge and Melton being locations of high demand on the LPAs register. As such I give significant positive weight to the scheme's custom build credentials in terms of its potential to meet an aspect of the identified significant unmet demand in the district.

Housing Mix and Affordable Housing

17. The proposed scheme consists of four 3 bedroom homes and five 4+ bedroom homes. The local authorities' self-build and custom build register records greatest demand for these sizes of dwelling. SCLP Policy SCLP5.9 does not address the tenure or mix of such housing. The CSBHSPD at paragraph 8.11 identifies that on sites proposing multiple homes, a variety of plot sizes will be expected to meet the demands of a range of potential occupants. The most relevant SCLP policy is SCLP5.8 which seeks to secure a mix of housing that would better reflect the overall need to balance the housing market, including for those with smaller budgets or smaller households. That would also include such households seeking suitably sized self-build or custom build accommodation. The appeal proposal would not provide a particularly varied mix of dwelling sizes, including any element for smaller households. As such I

find it would be contrary to Policy SCLP5.8 of the SCLP. However, the degree of conflict with the policy is reduced by the evidence that the proposed scheme would provide the size of custom build dwellings for which there is the greatest demand. As such, I consider only a very limited social harm would arise from the appeal proposal on this matter.

18. The scheme would not provide any affordable housing. Again, Policy SCLP5.9 does not address this matter in relation to self-build and custom build housing. Policy SCLP5.10 of the SCLP states that residential developments of 10 dwellings or sites of 0.5ha or more should make provision for 33% affordable housing. The appeal site is 2.2ha. There is nothing in the supporting text or in the LPAs Affordable Housing Supplementary Planning Document (AHSPD) to indicate that self-build and custom build housing would be exempt from the policy requirements in the development plan.
19. The appellant refers to several documents in aid of its position that self-build and custom build housing is exempt from providing affordable housing in national planning policy. This includes a legal opinion, a recent high court judgment⁵ quashing an appeal decision for self-build in Essex, and the recently redetermined appeal decision in that case⁶. I have also taken account of the earlier 2022 appeal in relation to the site before me. This decision addresses affordable housing having regard to the development plan (the same SCLP) as well as a legal opinion and the same Essex appeal proposal referred to by the appellant. This is set out comprehensively in paragraphs 41-51 of the 2022 appeal decision and addresses the same points now being made again in this appeal regarding National Planning Policy Framework (NPPF) paragraph 66 (previously paragraph 65 in the 2021 NPPF).
20. The legal opinion provided by the appellant says the NPPF contains no requirement for custom/self-build schemes to make any affordable housing contribution. Be that as it may, nor does the NPPF say that such housing is exempted as a matter of principle, as it does for other housing scenarios at paragraph 65. The legal opinion ends with saying that NPPF paragraph 66c) confirms that self-build/custom build schemes are implemented by those that build their own homes and therefore affordable rented homes cannot be part of a self-build scheme, such that a self-build scheme would only ever comprise a affordable home ownership product. Therefore, NPPF paragraph 66c) wholly disengages any affordable housing requirement. However, I do not see why, on larger sites, such as the appeal site, a scheme could not deliver a form of affordable housing as anticipated in the LPAs recently adopted SBCHSPD, which presents a number of possible delivery options.
21. The High Court judgment quashing the earlier Great Dunmow appeal makes reference to "various forms of contribution to housing which would be required..." These are unspecified and the judgment records at paragraph 2 the brief facts of the Inspectors decision. The judgment appears to be primarily concerned with matters of procedural fairness and whether in discounting the submitted UU on practical grounds (what the judge described as a "highly technical defect"), the Inspector should have dealt with the matter by condition through further written exchanges with the main parties. The judgment does not address the substance of whether national planning policy provides an exemption from affordable housing.

⁵ [2023] EWHC 2588 (Admin) St Edmunds Land Management v SoS EFRA & Uttlesford District Council.

⁶ APP/C1570/W/21/3282098

22. The reissued decision for the Great Dunmow appeal, published on 9 September 2024, at paragraph 22, accepts that the self-build / custom build scheme in that case would be exempt from making an affordable housing contribution by reference to NPPF paragraph 65. It is a brief paragraph, with no explanation as to how this judgment had been arrived at. I also have little before me in terms of the specific evidence that was tabled for the Great Dunmow appeal.
23. The Great Dunmow decision contrasts with the extensive reasoning set out in the 2022 decision for this appeal site. The central point is that NPPF paragraph 66 relates to exemptions from the 10% requirement for affordable home ownership, as a part of the overall affordable housing contribution from the site⁷. It does not exempt self-build or custom build housing entirely from providing affordable housing. If that was the intention of national planning policy the more obvious place would have been paragraph 65 where more general exceptions are identified. As such, I similarly adopt the reasoning at paragraphs 41-51 of the 2022 appeal decision and consequently I give minimal weight to the recent Great Dunmow decision as a material consideration.
24. Moreover, the NPPF is a material consideration, it does not overtake the primary status of the development plan. The SCLP in this case, is relatively recently adopted, less than five years and was adjudged to be consistent with national planning policy. The size of the site brings into within the thresholds in Policy SCLP5.10, despite the less than efficient use of the land proposed. Policy SCLP5.9 states proposals for self-build and custom build will only be supported where in compliance with all other relevant Local Plan policies. The CSBHSPD at paragraph 4.2 identifies that custom and self-build schemes will be required to deliver a policy compliant affordable housing mix, as per Policy SCLP5.10. This is echoed at paragraph 2.29 of the AHSPD.
25. I therefore conclude that the appeal proposal would conflict with Policy SCLP5.10 in not making provision for affordable housing. It would also fail to accord with the guidance set out in the LPAs CSBHSPD and AHSPD that schemes such as the appeal proposal should meet the requirements of Policy SCLP5.10. Whilst it is recognised that delivering affordable housing on self-build and custom build schemes can be more complex, there is nothing to demonstrate that it would not be viable on this greenfield site either on site or as an off-site financial contribution. I attach moderate weight to the social harm arising from the absence of any provision for affordable housing.

The Development Plan in respect of the principle and the location

26. The development plan at the appeal location comprises the Suffolk Coastal Local Plan adopted September 2020 (*the SCLP*) and the made Melton Neighbourhood Plan 2018 covering the period 2016-2030 (*the MNP*).
27. The SCLP is the more recent development plan document. It has been examined for consistency with national planning policy and adopted in the context of the NPPF. The NPPF is an iterative document but its content relating to delivering a sufficient supply of homes has remained relatively consistent since 2018 including the need to plan for different groups in the community including, amongst others, people who wish to commission or build their own homes. This reflects the 2015 Self Build and Custom Housebuilding Act 2015 which requires local authorities to maintain a register of those seeking to

⁷ Footnote 32 of the NPPF

- acquire serviced plots in the area and have regard to this and give enough suitable development permissions to give enough suitable development permissions to meet the identified demand.
28. Neither plan allocates the appeal site for development and as such it is adjacent to but beyond the physical limits boundary for Melton in the MNP and the settlement boundary subsequently established in the SCLP as shown on the Policies Map. Accordingly, it is for the purpose of the development plan to be regarded as countryside. Policy SCLP5.3 of the SCLP addresses housing development in the countryside, which is to be carefully managed subject to the criteria set out in the policy. The appeal proposal would not meet any of the criteria. Furthermore, Policy MEL1 of the MNP only supports development outside the physical limits where it would accord with an SCLP policy on appropriate uses in the countryside.
29. Added to this, the location of the appeal proposal would not accord with Policy SCLP3.2 of the SCLP. Whilst this policy identifies Melton as a 'Large Village' where further housing growth is anticipated, commensurate with being at the third tier in the settlement hierarchy. The policy states that development requirements will be delivered through site allocations plus windfall developments in accordance with other policies in the SCLP. Policy SCLP3.2 also confirms that development in the countryside will come forward through Neighbourhood Plans or windfall sites in accordance with other policies of the SCLP. As set out above, Policy SCLP5.3 does not set out that self-build or custom build housing is a type of development that requires a countryside location.
30. The appellant submits that through the LPAs Strategic Housing and Employment Land Availability Assessment process the appeal site was deemed as being 'potentially suitable' but that no additional provision for housing has yet been made in Melton despite its Large Village status, contrary to Policy SCLP3.2⁸. The Parish Council refer to a site for 55 dwellings in the 2018 MNP. As such, there is little evidence that suitable options for further housing development in Melton have been overlooked in recent years. Moreover, the SCLP is a relatively recently adopted document such that it remains valid that a plan review could look again at site options for Melton in the not-too-distant future in accordance with NPPF paragraph 83, amongst other things. Consequently, there is little before me to demonstrate a pressing need to generally release additional sites for housing at this moment in time.
31. To complete the SCLP picture on this point, Policy SCLP5.9 sets out the approach to self-build and custom build housing. It is a permissive policy provided that 'windfall' proposals accord with the other relevant policies in the Plan. That would allow for infill proposals for those seeking to commission or build their own homes within settlement boundaries, but it does not get the appeal proposal past the elementary conflict with Policy SCLP5.3 and MNP Policy MEL1.
32. Whilst, the appeal location is in the parish of Melton, it is effectively at the edge of the wider built-up area of Woodbridge. This has expanded in recent years, including the recent development of 189 homes on land immediately to the west of the appeal site on the north side of Woods Lane. The appeal proposal would be sustainably located, being within walking and cycling distance of

⁸ Separate from the former Council Offices site on Melton Hill at Policy SCLP12.32

facilities in Woodbridge and Melton, as well as bus stops close by on Woods Lane. However, despite this, it nonetheless remains that the site was not allocated or included with the settlement boundary in a relatively recently adopted Local Plan that was deemed to be capable of delivering and boosting the overall supply of housing in accordance with the NPPF, including various schemes that will count as self-build or custom build over the plan period.

33. Bring this all together, I find that the appeal proposal would represent piecemeal, incremental development outside the relatively recently established settlement boundary for which there is no support in the development plan. Consequently, it would be in fundamental conflict with SCLP Policies SCLP3.2, SCLP5.3 and SCLP5.9 as well as MNP Policy MEL1. It would result in a significant erosion of the certainty that is intended to arise in a plan-led system. Given the relatively recent adoption of the SCLP (within the last five years) I give significant negative weight to the conflict and harm identified.

Character and Appearance

34. SCLP Policy SCLP10.4 states that development proposals should be informed by, and sympathetic to, the special features and qualities as described in the Suffolk Coastal Landscape Character Assessment (2018) [*the LCA*], the Settlement Sensitivity Assessment (2018) [*the SSA*] and any updated landscape evidence. Also of relevance is Policy SCLP10.5 which seeks to only permit development of undeveloped land between settlements where it does not lead to the coalescence of settlements through a reduction in openness or the creation of urbanising effects between settlements. The appellant has submitted a Landscape Visual Assessment (LVA)⁹. In determining this appeal, I have considered landscape impacts, visual impacts and the issue of settlement coalescence, as distinct factors under the umbrella of this main issue.

Landscape

35. The appeal site comprises an open, pastoral field currently grazed by horses, and is subdivided for such by strands of electric fencing. At the time of my site visit, to the north-west of the site was a caravan, horsebox and trailer. These appear to be temporary, ephemeral features associated with the equestrian grazing. A small informal parking and turning area for vehicles exists in the south-west corner of the site adjacent to Woods Lane. The current land use is characteristically edge of settlement. It reveals the gently undulating topography of the site. The appeal site is characteristic of the host N1 Boulge Park and Bredfield rolling farmland landscape character area, as set out in the LCA. This is a landscape described as gently undulating, predominantly arable but some areas of pasture, scattered woodland, depressions in the landform and regular, well-maintained hedges.
36. The site is bounded to the north, west and south by hedging and trees, including denser pockets of vegetation in the south-west and north-west corners. The boundary to the north and west of the site is particularly strong, with the northern boundary assimilating with mature trees in the landscape beyond, to create a particularly verdant backdrop when looking at the appeal site from Woods Lane or from the public right of way along the eastern boundary of the site. This boundary vegetation would be retained.

⁹ Reference NC23.792-lva01 July 2023 and based on Proposed Layout Rev B (paragraph 2.3)

37. The hedge to the southern boundary of site along Woods Lane is reasonably strong but there are notable gaps affording clear views into and across the appeal site, revealing its open character and undulating nature. This boundary also differentiates the appeal site from the more suburban frontage at the recent Beadon Way development to the west. This boundary would be retained and supplemented with additional planting.
38. A shallow but notable valley form extends across the appeal site, generally from near the south-west corner of the site, becoming more pronounced towards the north-east corner of the site (as illustrated on the submitted site topography plan). This is highly redolent of the host landscape, as the landforms gently undulates and slopes towards the River Deben. Through a combination of the proposed layout, which would require some localised reduction in ground levels and recontouring elsewhere, together with the extent of the proposed landscaping, the perceptible shallow valley form within the appeal site would be largely lost.
39. The appeal site is also located within the ML1 Peripheral Area identified in the SSA. This identifies that the appeal location is part of the wider rural valley side character, providing a rural backdrop to existing settlement. The recent Bloor Homes scheme has clearly occurred at the settlement edge but rather than necessarily setting a precedent further expansion, it also serves to place a significance on remaining land, such as the appeal site, that makes a positive contribution to the rural setting of Woodbridge and separation of Woodbridge from Melton. The SSA describes the appeal location as rolling farmland comprising a transition between the plateau edge and the valley sides of the Deben. It further states the landscape is sensitive to future development given its rural character and value.
40. At present rooftops at Beadon Way are visible above the western boundary but this does not exert a strong urbanising influence on the appeal site. As such I do not share the appellant's LVA analysis that this development has degraded the landscape condition and marred the perceptual appeal. Additionally, the rural character of the site ties in with the wooded, vegetated edge to the south of Woods Lane which generally conceals the housing beyond. As such housing on Bury Hill Close is not prominent. There is scattered housing to the east of the appeal site, but this is very spaciouly set within mature woodland grounds. Despite the proximity of other housing development, the appeal site retains a strong rural character.
41. It displays key characteristics of the host landscape, serving as an appealing interface between the built-up urban area and the wider rolling countryside to the north. As such it makes a positive contribution to the setting of the edge of Woodbridge. Some of the landscape features would be retained and enhanced, such as hedging, but the proposed development would extend over an appreciable part of the appeal site. As such, and despite the extent of proposed landscaping, the appeal proposal would erode the rural openness of the majority of the site including driveways, garaging and inevitable domestic paraphernalia, as well as cloaking its pleasing and perceptible undulating nature under development and landscaping.
42. Whilst I understand the 2022 appeal would have removed more of the hedging and trees along the frontage of the site onto Woods Lane, the appeal proposal would nonetheless introduce a new vehicular access with accompanying

footway. From the submitted plans, it is shown that there would be a raised table crossing to enable pedestrians moving along Woods Lane to safely navigate this new access arrangement. As such, the proposed access would be a noticeable feature of suburban character at a point where the character of Woods Lane provides a rural gap between Woodbridge and Melton. Whilst the appellant has sought to place an appreciable amount of intervening landscaping between the Woods Lane entrance and the housing, the prevailing rural character of this part of Woods Lane would be disturbed by the presence of a small estate road entrance.

43. Overall, I share the LPAs assessment that the appeal site has a medium/high landscape susceptibility. For the reasons set out above there would be a significantly adverse landscape effect.

Visual Impact

44. To the east of the site is PROW21, a rural bridleway which extends north from Woods Lane between the rolling field of the appeal site and the woodland grounds to the east. Beyond the appeal site the path passes between mature hedging and trees before emerging onto the rural lane of Valley Farm Road. It is a particularly pleasant rural path affording an accessible means at the edge of Woodbridge to access the wider countryside. It is a clearly signed at both ends and from my observations it appears to be a well-used path.
45. The boundary of the path to the appeal site is very open in places, comprising mainly of post and wire fencing and a narrow margin of rough grassland and bracken with only occasional denser vegetation. Consequently, there are regular and extensive clear and open views across into the appeal site. As set out above, the rooftops of new housing at Beadon Way can be glimpsed at distance, but they are not a strong visual influence. The verdant, rolling nature of the field on the appeal site makes a positive contribution to the experience of using this rural path and provides a strong sense of moving along this path out into the characteristic rolling countryside to the north of Woodbridge. The path generally descends from Woods Lane towards the aptly named Valley Farm Road. The topography of the appeal site can be clearly experienced from this path, including the shallow valley form that gently descends towards the north-east corner of the site at the point where the path passes the boundary of the site.
46. The proposed layout (even when accepting the latest Rev07b drainage layout) means that the dwellings would be on the more elevated parts of the site such that they would appear prominent in views across from this rural public path. I accept that boundary planting along this path could soften views in the longer term once established but the proximity, particularly of proposed two storey dwellings on plots 8 and 9, and their position on rising land means boundary landscaping would have limited effectiveness in sufficiently screening the development. The latest layout for the drainage strategy would involve earth moving and appreciable areas of raised earth adjacent to the right of way. This heavily manipulated, and somewhat lumpy, landform would appear as a contrived approach to screen an enclave of suburban development into what is currently an otherwise open and arcadian field.
47. I do not share, from my own observations, the assessment of the LVA that existing housing to the west noticeably influences how the appeal site is experienced by those moving slowly along PROW21. The effects arising from

the visual changes from open pastoral field to a development of 9 dwellings, with large footprints, which for some time will be in plain view and at relatively close quarters would have a high visual effect. This would lessen over time with landscaping but I consider the residual effect would still be significant given the proximity of plots 8 and 9 to the path, including domestic boundary treatments, noise and the presence of taller two storey dwellings. Overall, I consider there would be significant visual and experiential harm to users of this rural public right of way.

48. The appeal proposal, through a combination of extensively landscaping the southern edge of the site and the proposed scale of the buildings (some single storey and all with flat roofs, including elements of green roofs), has sought to limit visibility from Woods Lane. As set out above, the entrance to the site would have a high profile within Woods Lane, announcing the perception of modern development at depth, if not the visibility. It would also afford long term glimpses to Plot 1 from within Woods Lane, announcing development beyond due to the width and standard of the small estate road. In the short to medium term, the landscaping intended to shield Plots 2, 4, 6 & 8 would take some time to become established. I accept the combination of bunding and landscaping would significantly reduce the visibility of these plots. That said, the openness of the appeal site, which can currently be appreciated within Woods Lane along the footway through gaps in the existing hedge, would be visibly lost. Taking this, and the visible intrusion of the proposed estate road entrance, I consider the appeal proposal would have a moderately harmful visual impact from Woods Lane.

Coalescence

49. The appeal site remains part of a green and rural gap between the edge of Woodbridge and the principal edge of Melton a short distance to the east. The SSA describes the rural land north of Woods Lane as forming the setting and approach to Melton, reinforcing its separation from Woodbridge.
50. The pattern of land use and development north of Woods Lane at the wider appeal location is predominantly rural between the new housing at Beadon Way and the principal edge of Melton east of Valley Farm Road. The only development in this area is the small and long-established cluster of dwellings and their outbuildings to the east of the appeal site. These are enveloped within a mature sylvan setting such that they are not prominent from within Woods Lane. Woodpecker Cottage is visible from the public path to the east of the appeal site but is set alone as an established property within mature, treed grounds, such that it largely appears as an isolated dwelling in the countryside.
51. The appeal proposal by virtue of its scale, highway access onto Woods Lane and loss of rural openness through contrived landscaping and recontouring, would notably diminish the sense of separation between Woodbridge and Melton. It would erode one of the remaining open gaps immediately north of Woods Lane.

Conclusions on Landscape, Visual and Coalescence effects

52. I therefore conclude that the appeal proposal would result in unacceptable harm to the character and appearance of the surrounding area. Therefore, it would be contrary to SCLP Policies SCLP10.4 and SCLP10.5 which require development to protect and enhance the visual relationship and environment

around settlements and their landscape setting and to resist the coalescence between settlements through the reduction in openness, respectively. It would also be contrary to NPPF paragraph 180b) which says decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Flood Risk

53. Flood risk was not a main issue for the 2022 appeal but there have been material changes since that decision including updates to the PPG on Flood Risk and Coastal Change published in August 2022. The appeal site is within Flood Zone 1.
54. The appellant's most recent Flood Risk and Surface Water Assessment is versioned Revision 3 and dated 22 July 2024. It addressed surface water flooding, referring to Environment Agency mapping (undated), to advise that the majority of the site is at very low risk of surface water flooding, with a small section of the site considered to be at low risk (page 8). It then states (page 9) that there are no known records of surface water flooding at the site location. Separately, the appellant has also submitted as part of the appeal a Flood Risk Assessment, Drainage and SUDs Statement (revised May 2024), which aligns with this. In contrast, the LPA has provided an extract from the Government's long term flood risk mapping resource that shows parts of the appeal site to be affected by surface water flooding including an area of high risk (more than 3.3% annual probability) close to the western boundary of the site.
55. NPPF paragraph 167 states that all plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flooding (my emphasis). The approach is to apply the sequential test first and then, if necessary, the exception test. NPPF paragraph 168 further states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Alongside the NPPF, the PPG says at paragraph 7-023-20220825 that the aim of the sequential approach is to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk (my emphasis). The PPG says. "This means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including areas at risk of surface water flooding."
56. The appellant's response to the points raised in the LPAs statement of case states that the PPG on Flood Risk was last updated in 2017 and so the sequential test is not engaged. As set out above that is not the case and matters have materially changed since the 2022 appeal. The LPA has submitted a recent January 2024 Court of Appeal judgment¹⁰, which the appellant submits endorses their position that it would not be necessary to undertake the sequential test in relation to surface water. I have relatively little information on the specific facts in that case and against which version of the NPPF and PPG the relevant flood risk assessment work was undertaken to inform the Court of Appeal judgment. For this appeal I have had regard to the latest NPPF and the PPG, as required.

¹⁰ Substation Action Save East Suffolk v. SoSESNZ and others. [2024] EWCA Civ12

57. I accept that on the information before me the area of high risk of surface water flooding within the appeal site is relatively modest. However, flood mapping is not an exact science, and so the extent of flood risk may be underestimated. Moreover, it is clear to me that both the NPPF and the PPG require the sequential test to be applied to demonstrate that there is not a reasonable alternative site within an area of lower flood risk, including in relation to surface water. The appeal proposal is a speculative scheme for 9 self-build and custom build homes, which arguably does not require a specific geographical location and could be accommodated elsewhere in the district on sustainably located land of lower flood risk. There is no imperative, overriding reason that the scheme must be in an area with a high risk of surface water flooding to negate engaging with the required sequential test.
58. I therefore conclude, that in the absence of a Flood Risk Assessment that applies the sequential test, it has not been satisfactorily demonstrated that the proposal could not be accommodated in an area with a lower risk of flooding. The proposal would therefore conflict with Policy SCLP9.5 of the SCLP which states that proposals for new development will not be permitted in areas at high risk from flooding unless the applicant has satisfied the safety requirements in national planning policy guidance, including the sequential test. In similar terms, there would be a conflict with paragraphs 167 and 168 of the NPPF and paragraphs 7-023-20220825 and of the PPG.

Other Matters

59. Since the LPA submitted its statement of case for the appeal, the appellant has resolved objections with the Local Lead Flood Authority on the outline drainage strategy. I am satisfied the matter could be dealt with by condition(s) and no harm would arise.
60. At the end of March 2024, the Local Highways Authority removed its holding objection subject to the imposition of a number of conditions. Having regard to this, I am satisfied that the site could be safely accessed from Woods Lane, notwithstanding the appreciable volume of traffic on this A classification road. These conditions include securing visibility to the site entrance.
61. The appeal proposal would upgrade the existing footway along Woods Lane to a 2 metres width. As such there would be a wider public benefit from an improved pedestrian environment along this part of Woods Lane. This would accord with the Local Cycling and Walking Strategy (recommendation IM17) to enhance a continuous walking and cycling route between Martlesham, Woodbridge and Melton, including along Woods Lane. This is also reflected in Policy MEL2 of the MNP. It is noted that the proposal would not secure a 3 metres width combined footway/cycle path, as originally proposed. Nonetheless, I give moderate weight to the benefit of an improved footway along this part of Woods Lane.
62. The submitted UU makes provisions for mitigating likely significant effects arising from recreational disturbance at proximate protected habitats within 13km of the appeal site. The established mitigatory framework is contained within the Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) and would involve securing a financial contribution on a per dwelling basis. The financial contribution presented in the UU would appear to accord with the RAMS tariff, although the trigger point is disputed by the LPA. However, because I am dismissing this appeal for various reasons, it is not

necessary that I undertake an appropriate assessment for the purposes of the Habitats Regulations.

63. The appellant has submitted various appeals¹¹ which have allowed self-build and custom housing outside of identified settlement boundaries, where the balance has been in favour of the benefits of providing self-build and custom build housing over the conflict with the development plan and settlement boundaries. By the same token the LPA has submitted a joint appeal decision¹² to the contrary within its area. I have relatively few details on the circumstances at the appeals provided by the appellant, none of which are in East Suffolk. I have determined this appeal based on its own merits and the development plan before me. Accordingly, I give minimal weight to the appeal decisions cited by the appellant as material considerations in favour of allowing this appeal.

Balance and Conclusion

64. The appeal proposal would be outside of the settlement boundary at a location where the development plan seeks to carefully manage development as part of a plan-led approach. The appeal proposal would not comprise a type of development which the most recently adopted development plan document (the SCLP) says requires a countryside location. As such significant harm would result from the conflict with the spatial strategy and the erosion of valuable certainty that should arise from having an up-to-date local plan.
65. The appeal would also result in unacceptable harm to the character and appearance of the surrounding area, including harmful coalescence between Melton and Woodbridge at this location. I give this significant weight. Furthermore, the appeal site contains an area with a high risk of surface water flooding. As such there would be significant environmental harm from pursuing development in a high flood risk area without first considering whether sequentially preferable sites with a lower risk of flooding are reasonably available. There would be a moderate social harm from the failure to make any provision for affordable housing and a further very limited social harm from the appeal proposal not delivering an appropriate mix of house sizes. Overall, the appeal proposal would be contrary to development plan when taken as a whole.
66. The appeal proposal would deliver 9 additional custom build dwellings on a sustainably located site. Whilst they would make only a modest contribution towards the unmet demand, I nonetheless give significant positive weight to the social and economic benefits arising from the proposed homes, including the economic potential that local building firms and tradespeople would have the opportunity to be involved in their construction. As set out above, proposed improvements to the standard of the footway on this part of Woods Lane would amount to a modest social benefit.
67. There is nothing before me that the LPA cannot demonstrate an overall deliverable supply of housing land against the housing requirement in the SCLP. Whilst there is common evidence of a significant unmet demand for self-build and custom build accommodation considerably in excess of suitable permissions in the district, the SCLP is not silent on the matter. There is a

¹¹ APP/Y3940/W/23/3317252, APP/H1840/W/19/3241879 & APP/W2845/W/23/3323851

¹² APP/X3540/W/20/3245440 & APP/X3540/W/20/3256782

relevant policy that seeks to deliver such housing over the plan period, including as a proportion of all housing schemes over 100 units. As such, the tilted balance at NPPF paragraph 11d) is not engaged. On a straightforward planning balance, the various benefits identified would not amount to material considerations sufficient to outweigh the clear and significant conflict with the development plan.

68. I have had regard to all other matters raised, but there is nothing that leads me to conclude other than that the appeal should be dismissed for the reasons given.

David Spencer

Inspector.