



# Appeal Decision

Site visit made on 5 April 2022

**by William Cooper BA (Hons) MA CMLI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14<sup>th</sup> April 2022**

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**Appeal Ref: APP/F3545/W/21/3278163**

**George Hill Nurseries, Barningham Road, Stanton IP31 2AD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline planning permission.
  - The appeal is made by Mr Stewart Baxter-Smith, Pier and Partners Limited against the decision of West Suffolk Council.
  - The application Ref: DC/20/2065/OUT, dated 24 November 2020, was refused by notice dated 9 April 2021.
  - The development proposed is an outline planning application for residential development comprising up to ten dwellings with associated new access, parking, amenity space, landscaping and ancillary works (all matters reserved except for access).
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## Decision

1. The appeal is allowed and outline planning permission is granted for the residential development comprising up to ten dwellings with associated new access, parking, amenity space, landscaping and ancillary works (all matters reserved except for access) at George Hill Nurseries, Barningham Road, Stanton IP31 2AD in accordance with the terms of the application, Ref: DC/20/2065/OUT, dated 24 November 2020, and the plans submitted with it, subject to the conditions set out in attached Schedule A.

## Application for costs

2. An application for an award of costs was made by Mr Stewart Baxter-Smith, Pier and Partners Limited against West Suffolk Council. This application is the subject of a separate decision.

## Preliminary Matters

3. The planning application was submitted in outline, with all matters of detail reserved for future consideration save for the access. I have assessed the proposal on this basis and treated the illustrative site layouts as simply being an illustration of how the proposal could ultimately be configured.
4. Since the Council's decision, a new version of the National Planning Policy Framework (the Framework) has been published. The parties have had opportunity to comment on the engagement of this new policy document in relation to the appeal, and so will not be disadvantaged by my consideration of it.

## Main Issue

5. The main issue in this case is whether the proposed development would provide a suitable site for housing, having regard to its effect on a) the local strategic focus on locating rural housing development within the settlement boundaries of Stanton village, and b) the character and appearance of the area.

## Reasons

6. The appeal site is an overgrown former horticultural nursery with several greenhouses and outbuildings. It fronts onto a stretch of the B1111 road in countryside which is outside the settlement boundary of Stanton village.
7. The development plan directs new housing to sites within settlement boundaries unless that housing would be an 'exception', as set out in Policies DM5, DM26, DM27 and DM29 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (DMP).
8. The appeal scheme would not sit within a settlement boundary, and does not propose agricultural and essential workers dwellings in the immediate vicinity of a rural enterprise or affordable housing adjoining a settlement boundary or built up area. As such, the proposal does not come within categories of potential rural housing development for consideration under Policy RV3 of the St Edmundsbury Rural Vision 2031 (RV) and Policies DM26, and DM29 of the DMP. Furthermore, the proposed development would not meet the exceptions criteria of Policy DM5 of the DMP for housing in the countryside. Also, as it is for more than a detached or a pair of semi-detached dwellings, it would not satisfy the criteria of the DMP Housing in the Countryside Policy DM27.
9. As such, no such exceptional criteria are satisfied by the proposed development, and the proposal would be at odds with rural housing policies in the development plan and the RV.
10. Two previous Inspectors' decisions in 2017<sup>1</sup> dismissed appeals on other outline housing proposals for the appeal site on grounds other than locational suitability. In so doing, the second 2017 appeal decision echoed the first 2017 appeal decision in finding that while the site's location conflicted with various development plan policies on rural housing, a) there was an absence of 'actual' harm arising from this policy conflict, and b) the Framework's point<sup>2</sup> about rural housing contributing to the vitality of rural communities was engaged. The second 2017 appeal decision went on to find that these considerations were sufficiently weighty to indicate the site's locational suitability for housing, in principle.
11. However, more recently the Inspector in the 2019 appeal decision<sup>3</sup> on another site in West Suffolk<sup>4</sup> emphasises the importance of the consistency and relative certainty that should flow from a plan-led approach to the location of new development. This is echoed in the Council's finding of harm on similar

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<sup>1</sup> Appeal Refs: APP/E3525/W/16/3158478 in January 2017 and APP/E3525/W/17/3175909 in September 2017 (The first and second 2017 appeal decisions).

<sup>2</sup> As set out in the then paragraph 55, and now updated paragraph 79 of the Framework.

<sup>3</sup> Appeal Ref: APP/H3510/W/19/3222167 (the 2019 appeal decision).

<sup>4</sup> Cited in the Council's Appeal Statement.

grounds<sup>5</sup> in the current appeal case. Having regard to this more up to date position of the Council and another Inspector, I give weight to the importance of the relative certainty that should flow from a plan-led approach to the location of new development in the current appeal case. Accordingly, I find that the second 2017 appeal decision's approach to the principle of locational suitability is not applicable to the current appeal proposal.

12. The proposed development would be located outside the settlement boundaries of Stanton village. Harm would arise from this and the consequent conflict with rural housing policies of the development plan, for the following combination of reasons. The development would fail to focus rural housing within the settlement boundaries of Stanton village. This would undermine the relative certainty of the development plan's focus on providing rural housing within boundaries of settlements including Stanton village. Also, it would contribute to the dispersal of increased vehicle movements in the area during and after construction of the development, with associated adverse environmental impacts.
13. The St Edmundsbury Core Strategy (CS) categorises the village of Stanton as one of five Key Service Centres with a good level of services in West Suffolk, that<sup>6</sup> are to be the main focus for new homes outside of Bury St Edmunds and Haverhill. Within this context, Policy CS4 of the CS requires development proposals to have regard to the position of sites within the settlement hierarchy, including giving careful consideration to maintaining the character of the setting of the settlement, including through avoiding the coalescence of towns with surrounding settlements.
14. North of Duke Street, the stretch of B1111 on which the appeal site is located, has a village outskirts character, with a mix of somewhat dispersed residences, and substantial boundary hedging and trees around rural fields and properties. Between tree-lined fields, the site's southern foreground stretch of the B1111 is more fully rural in character, while this road's character to the north of the appeal site gradually increases in residential intensity.
15. Within this context, the site reads on the ground as a semi-derelict nursery, on a stretch of road that has a mixed semi-rural and semi-suburban character. This mixed character is reflected in the site's front hedge, which is a mix of rural native and suburban ornamental shrub species.
16. Within this context, even with a more prominent hedging scheme of the type visualised in the latest illustrative frontage layout<sup>7</sup>, the envisaged setback from the road of a replacement frontage hedge, together with the combination of frontage residential paths and road entrance and added residential cul-de-sac form indicate that the proposal is likely to intensify the residential character of the host stretch of B1111 corridor, including in a deeper, less linear and less verdant rural manner.
17. However, that said, the likely magnitude of change upon the countryside would be lessened by the fact that the appeal site is already occupied by a number of outbuildings and greenhouses. Also, the mixed character of the host stretch of B1111, including the presence of a cluster of nearby residences to the north,

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<sup>5</sup> As set out in paragraph 67 of the Planning Officer's Delegated Report.

<sup>6</sup> As indicated by supporting text paragraph 4.54 of the CS.

<sup>7</sup> As per drawing Ref: 1570.005.

south and south-west of the appeal site, would potentially help assimilate residential development on the appeal site into its setting. The variation in development depth along the eastern side of the B1111 would help dilute the impact of the potential depth of development. Also, the proposal would not result in the coalescence of Stanton and other settlements.

18. As such, I anticipate that, with a sensitive design approach to appearance, landscaping, layout and scale, attuned to local vernacular style and the character mix of the village's setting, there is scope for a suitably sympathetic scheme to be devised for this infill site at reserved matters stage, to preserve the locality's mixed character.
19. Therefore, the proposal would not harm the character and appearance of the area. In this respect, it would not conflict with Policy CS4 of the CS, and Policies DM2 and DM13 of the DMP which together seek to ensure that, among other things development complements local character, including the setting of settlements. As such, character and appearance is not an impediment to the outline permission, with all matters reserved except access, which is sought in this case.
20. Nevertheless, given the identified harm in terms of locational suitability and conflict with Policies DM5, DM26, DM27 and DM29 of the DMP, and Policy RV3 of the RV, I conclude that the proposal would not provide a suitable site for housing.

### **Other Matters**

21. Concerns have been expressed by some members of the local community about highway safety, the living conditions of neighbours and the importance of locally grown produce. These matters go beyond the reason for refusal.
22. Apart from the access, the site layout at this outline stage is simply illustrative. I see no reason that, with diligent and sensitive design, appropriate access to the front and rear of dwellings to facilitate safe parking behaviour could not be addressed at reserved matters stage. Also, there is no substantive evidence before me to indicate that the scale of proposed development would significantly increase traffic volume and movements on and off this stretch of the B1111, such as to harm highway safety. This is reflected in the 'no objection' position of the Local Highway Authority, who, in the light of the appellant's speed and traffic survey, indicate that the proposed visibility splays are appropriate.
23. To safeguard the living conditions of neighbours, including with regard to light and outlook, I anticipate that future detailed design of the scheme would need to take a careful approach to layout, landscaping, scale and appearance of dwellings. To this end, planning conditions are attached regarding reserved matters. Also, there is no substantive evidence before me of a prospect of agricultural operations taking place on the appeal site.
24. As such, these matters do not constitute grounds for dismissing this planning appeal.

### **Conditions**

25. The conditions suggested by the Council have been considered against the tests of the Framework and advice provided by Planning Practice Guidance. I

have found them to be broadly reasonable and necessary in the circumstances of this case. I have made some minor drafting changes to suggested conditions in the interests of precision.

26. Conditions relating to approved plans, the submission and implementation of reserved matters and associated time limits are necessary to provide certainty. I attach conditions relating to materials, landscaping and arboriculture to safeguard the character and appearance of the area. Conditions are also attached in the interests of biodiversity. Conditions covering construction management are necessary to safeguard the living conditions of residents. Conditions regarding contamination are attached to control pollution.
27. Conditions covering vehicular infrastructure including electric vehicle charging are required in the interests of sustainable transport provision. Conditions are attached to safeguard archaeological assets. Conditions regarding drainage and water consumption are necessary to ensure sustainable water management. A condition is attached to ensure safe refuse collection provision. Conditions relating to carriageways and footways are necessary in the interests of safe access for residents and visitors.

### **Planning Balance and Conclusion**

28. I attach substantial weight to the conflict with the development plan and the associated harm in terms of locational focus of rural housing. Also, it is undisputed that the Council can demonstrate a five year deliverable housing land supply.
29. That said, the proposed development would contribute up to ten dwellings, including 30% affordable housing units to local housing supply, on a site that is a relatively convenient drive and walk from the Key Service Centre village of Stanton. This would provide associated socio-economic benefits to the area during and after construction, including custom for local services, facilities and businesses in and around Stanton village, that would contribute towards sustaining them. The proposal would rejuvenate a vacant and somewhat run down brownfield site. Also, extension of the public footway would help improve pedestrian accessibility between the site and the village centre.
30. I find that the proposal's benefits and consequent contribution towards helping meet the Framework's objectives of boosting the supply of homes<sup>8</sup>, enhancing or maintaining the vitality of rural communities<sup>9</sup> and promoting the effective use of land for homes<sup>10</sup> carry even more substantial weight. This amounts to a material consideration of sufficient weight to indicate that planning permission should be granted, notwithstanding the conflict with rural housing policies in the development plan. I therefore conclude that the appeal succeeds.

*William Cooper*

INSPECTOR

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<sup>8</sup> Stated in paragraph 60 of the Framework.

<sup>9</sup> As per Framework paragraph 79, first sentence.

<sup>10</sup> Stated in paragraph 119 of the Framework.

### **Schedule A) Conditions**

- 1) Application for the approval of the matters reserved by conditions 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 begin not later than whichever is the latest of the following dates: the expiration of three years from the date of this permission; or the expiration of two years from the final approval of the reserved matters; or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- 2) The development shall be carried out in accordance with the following approved drawings: 1570.001 Rev A Site Location Plan; 3364-SK-04 Rev P03 Outline Junction Design.
- 3) Prior to 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 development shall be carried out as approved.
- 4) No development above slab level shall take place until there shall have been submitted to and approved in writing by the local planning authority details of the materials to be used and colour finishes to be applied externally, including walls, roofs, doors, windows and rainwater goods. The development shall be carried out in accordance with the approved details.
- 5) Any subsequent submission of reserved matters required by conditions of this planning permission shall at the same time as its submission also include a landscape strategy. The information shall include the layout of the external areas, including: i) areas of hard landscaping including surfacing; ii) soft landscaping such as planting, hedges, grassland and boundary treatments; iii) details of proposed tree and hedge planting including species and size; and iv) any significant changes in ground level. The strategy should also include, where appropriate, details of proposed phasing and landscaping management and maintenance requirements.
- 6) Prior to commencement of development there shall have been submitted to and approved in writing by the local planning authority an arboricultural method statement (AMS), including any demolition, groundworks and site clearance. The AMS 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 development 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 any proposed surgery works to be undertaken to those trees and hedges that are to be retained on the development site. The development shall be carried out in accordance with the approved AMS unless agreed in writing by the local planning authority.

- 7) Prior to commencement of development, including any demolition, ground works and site clearance, there shall have been submitted to and approved in writing by the local planning authority a biodiversity method statement (BMS). The BMS shall include: i) purpose and objectives of the proposed works; ii) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used); iii) extent and location of proposed works shown on appropriate scale maps and plans; iv) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction; v) persons responsible for implementing the works; vi) initial aftercare and long-term maintenance, where relevant; vii) disposal of any wastes arising from works. The works shall be carried out in accordance with the approved details and retained in that manner thereafter.
- 8) Prior to commencement of development, including any demolition, ground works and site clearance, there shall have been submitted to and approved in writing by the local planning authority a biodiversity enhancement strategy (BES) for protected and priority species. The content of the BES shall include the following: i) the purpose and conservation objectives for the proposed enhancement measures; ii) detailed designs to achieve stated objectives; iii) locations of proposed enhancement measures by appropriate maps and plans; iv) persons responsible for implementing the enhancement measures; v) details of initial aftercare and long-term maintenance, where relevant. The works shall be implemented in accordance with the approved details and retained in that manner thereafter.
- 9) Prior to commencement of development, including any works of demolition, there shall have been submitted to and approved in writing by the local planning authority a construction method statement (CMS). The CMS shall provide for: i) parking of vehicles of site operatives and visitors; ii) loading and unloading of plant and materials; iii) site set-up, including arrangements for the storage of plant and materials used in constructing the development and the provision of temporary offices, plant and machinery; iv) erection and maintenance of security hoarding including external safety and information signage, interpretation boards, decorative displays and facilities for public viewing, where appropriate; v) wheel washing facilities; vi) measures to control the emission of dust and dirt during construction; vii) a scheme for recycling/disposing of waste resulting from demolition and construction works; viii) hours of construction operations including times for deliveries and the removal of excavated materials and waste; ix) noise method statements and noise levels for each construction activity including piling and excavation operations; x) access and protection measures around the construction site for pedestrians, cyclists and other road users, including arrangements for diversions during the construction period and for provision of associated directional signage relating thereto. The approved CMS shall be adhered to throughout the construction period.
- 10) At least 28 days before any deliveries or removal of any materials or vegetation commence, there shall have been submitted to and approved in writing by the local planning authority a construction deliveries management plan (CDMP) for all HGV traffic movements to and from the site over the duration of the clearance, demolition or construction period.

The CDMP shall include: i) routing to and from the site for all construction vehicles; ii) means to ensure no water, mud or other debris can egress onto the highway; iii) sufficient space on-site for the parking and turning of all staff, visitors and delivery/servicing vehicles; iv) sufficient space on-site for the storage of materials and equipment; v) means to ensure no light source will cause glare or discomfort to highway users. No HGV or construction traffic movements shall be permitted to and from the site other than in accordance with the routes defined in the CDMP. The site operator shall maintain a register of complaints and record of action taken to deal with such complaints at the site office as specified in the CDMP throughout the period of occupation of the site.

- 11) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority the following components to deal with the risks associated with contamination of the site: i) a site investigation scheme; ii) results of the site investigation, based on item i) and a detailed risk assessment, including a revised conceptual site model; iii) a contamination remediation strategy, based on item ii), that provides full details of 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.
- 12) No occupation of any part of the development shall take place until there shall have been submitted to and approved in writing by the local planning authority a verification report demonstrating completion of works as set out in the contamination remediation strategy.
- 13) If during development contamination not previously identified is found to be present at the site then, unless otherwise agreed in writing by the local planning authority, no further development 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.
- 14) No above ground development shall take place until there shall have been submitted to and approved in writing by the local planning authority details of the areas to be provided for the loading, unloading, manoeuvring, parking and electric charging of vehicles, and secure cycle storage. The approved scheme shall be implemented in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.
- 15) Prior to first occupation of the development, all dwellings with off-street parking shall be 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.
- 16) No development shall take place on site until the implementation of a programme of archaeological work has been secured, in accordance with a archaeological written scheme of investigation (AWSI) which shall have been submitted to and approved in writing by the local planning authority.



The AWSI shall include an assessment of significance and research questions, and: i) the programme and methodology of site investigation and recording; ii) the programme for post-investigation assessment; iii) provision to be made for analysis of the site investigation and recording; iv) provision to be made for publication and dissemination of the analysis and records of the site investigation; v) provision to be made for archive deposition of the analysis and records of the site investigation; vi) nomination of a competent person or persons/organisation to undertake the works set out in the AWSI; vii) a timetable for the site investigation to be completed prior to development, or in such other phased arrangement, as agreed in writing by the local planning authority.

- 17) No building shall be occupied until the site investigation and post-investigation assessment have been completed, submitted to and approved in writing by the local planning authority, in accordance with the programme set out in the approved AWSI and the provision made for analysis, publication and dissemination of results and archive deposition.
- 18) Concurrent with the first reserved matters application(s), a surface water drainage scheme (SWDS) shall be submitted to and approved in writing by the local planning authority. The SWDS shall be in accordance with the approved drainage statement (DS) and include: i) dimensioned plans and drawings of the surface water drainage scheme; ii) infiltration testing on the site in accordance with BRE365 and the use of infiltration as the means of drainage, if the infiltration rates and groundwater levels show it to be possible; iii) if the use of infiltration is not possible then modelling shall be submitted to demonstrate that the surface water runoff will be restricted to QBAR or 2l/s/ha, or other value agreed based on Anglian Water requirements/minimum orifice restrictions for all events up to the critical 1 in 100 year rainfall events including climate change as specified in the DS; iv) modelling of the surface water drainage scheme to show that the attenuation/infiltration features will contain the 1 in 100 year rainfall event including climate change; v) modelling of the surface water conveyance network in the 1 in 30 year rainfall event to show no above ground flooding, and modelling of the volumes of any above ground flooding from the pipe network in a 1 in 100 year rainfall event, including climate change, along with topographic plans showing where the water will flow and be stored to ensure no flooding of buildings or offsite flows; vi) topographical plans depicting all exceedance flow paths and demonstration that the flows would not flood buildings or flow offsite, and if they are to be directed to the surface water drainage system then the potential additional rates and volumes of surface water must be included within the modelling of the surface water system; vii) details of a construction surface water management plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction, including demolition and site clearance operations. The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction. The approved CSWMP shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include a) temporary drainage systems, b) measures for managing pollution/water quality and protecting controlled waters and watercourses, and c) measures for managing any on or off-site flood risk associated with construction; viii) details of the maintenance and

management of the SWDS. The scheme shall be fully implemented as approved.

- 19) Within 28 days of practical completion of the last dwelling, a Sustainable Drainage System (SuDS) verification report shall be submitted to the local planning authority, detailing that the SuDS have been inspected, built and function in accordance with the approved designs and drawings. The report shall include details of all SuDS components and piped networks, and shall be submitted to and approved in writing by the local planning authority for inclusion on the Lead Local Flood Authority's Flood Risk Asset Register.
- 20) The dwelling(s) hereby approved shall not be occupied until the requirement for water consumption (110 litres use per person per day) in part G of the Building Regulations has been complied with, and evidence of compliance has been obtained.
- 21) Before any works above slab level commence, there shall have been submitted to and approved in writing by the local planning authority details of the areas to be provided for storage and collection of refuse/recycling bins. The approved scheme shall be carried out in its entirety before the development is brought into use and be retained thereafter for no other purpose.
- 22) Before the development commences, there shall have been submitted to and approved in writing by the local planning authority details of the development's roads and footpaths, including layout, levels, gradients, lighting, surfacing and means of surface water drainage.
- 23) No dwelling shall be occupied until the carriageways and footways serving that dwelling have been constructed to at least binder course level, or better, in accordance with the approved details, except with the written agreement of the local planning authority.