

SAFE COMMENTS OF THE ROAD SAFETY ASPECTS OF APPLICATION DC/19/05956

1. Context - There appears to be no national or local policy which supports this application. Its unsuitability is particularly marked on road safety grounds. Furthermore, evidence of its unsuitability on road safety grounds has increased – rather than decreased – since the Appeal of 25th September 2019 which dismissed the predecessor application (1648/17) on heritage grounds, upholding the unanimous MSDC Committee decision reached on the advice of an unequivocal Officer's Report, developed in response to observed data and an equally unequivocal recommendation for refusal from Suffolk County Council Highways Department (SCC).

Applications which accord with the Development Plan, (which in relation to applications in our parish now includes the Fressingfield Neighbourhood Plan), are subject to a qualified legal requirement for approval, unless material considerations indicate otherwise. The application breaches a number of road safety policies in these documents. Even if this were not the case, there are material considerations which reinforce, rather than undermine, the case for refusal, as outlined in Section 4 below.

2. How the Context has changed since 1648/17

2.1. Fressingfield Neighbourhood Development Plan (FNDP) - S70 of the Town and Country Planning Act 1990 requires the LPA to have regard to *'the provisions of the development plan, so far as material to the application'*. The NDP is now part of the Development Plan under S38 of the Planning and Compulsory Purchase Act 2004. During the NDP process it was assessed by the Examiner for compliance with the MSDC Development Plan and the NPPF, and amendments made by her to secure such compliance where necessary. The final version of the Plan was approved by referendum on the 12th March 2020 and 'made' by MSDC on the 23rd. It is therefore a binding consideration upon MSDC which was not in place when the predecessor application was considered on 22nd November 2018. Footnote 2 of para 2 of the NPPF is clear that a made NDP is part of the Development plan and therefore a material consideration in its own right.

Under the NPPF, whatever the status of the rest of the Development Plan, an application can be refused if *'any adverse impacts of [the development] would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF as a whole'*. The NPPF sets out conditions where this criterion is likely to be met if there is an NDP in place with which the application conflicts, whatever the status of the Development Plan:

- The NDP is no more than two years old – FNDP is a 1 year old
- The NDP has policies and allocations to meet its identified housing requirement - FNDP complies
- the LPA has at least a three year supply of deliverable housing sites – MSDC complies
- the LPA's Housing Delivery Target was at least 45% - MSDC's HDT was 81% in September 2019

This position also reflects the view of MSDC's Neighbourhood Planning Officer who advised in an email on the 16th July 2020 to a SAFE member: *'where an adopted NDP is in place, it forms part of the development plan framework so decisions on applications should be made with that in mind. That said, there may be circumstances that come into play at the time, i.e. where the NDP is in conflict with a more recently adopted plan or policy, in which case that latter takes precedent.'* There is no later policy than the FNDP which is dated 23rd March 2020, and was declared to be consistent with both the Development Plan policies and the NPPF by the Examiner prior to referendum and to being made by MSDC.

2.2 A new but unseen baseline - The FNDP has been approved since the predecessor application and this sets out the housing figure specified by MSDC for the village, 51 of which have already been approved but not yet built along with a new larger Baptist Chapel. This important but so far unseen increase in the baseline from which all assessments of this application must be based, must not be forgotten. Based on SCC's formula for residents per dwelling, the approved houses will bring another 116 residents to the village before those who would arrive as the result of the subject application can be considered.

This change in baseline was not considered in the decision on the predecessor application and is not reflected in the latest calculations submitted by the applicant, nor in the response from SCC. Given the requirements of paragraph 109 of the NPPF to consider the *'residual cumulative impacts on the road network'*, the as yet unseen impact of these additional 51 houses and a large Baptist Chapel must be explicitly taken into account.

2.3 Loss of Public Transport in the village – the weekly bus service which ran when the predecessor application was considered, has been stopped altogether.

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2.4 New evidence on road safety – the SAFE Road Safety Survey (already supplied in full to the Planning Officer) described in section 4 below was not available at the time of the decision on 1648/17 and provide exactly the sort of evidence on ‘*observed road safety issues*’ that recent Appeals require to be considered in addition to Crash map data.

3. Policy Considerations

3.1 Locating development where it is sustainable

a) MSDC - Policy T13 (retained June 2016) states that will ‘*use its responsibilities for planning the development and use of land to locate housing, employment and other uses in ways which support SCC's efforts to maintain and improve an effective network of bus services, including community bus services and other self help schemes.*’ The single weekly bus service (described by SCC at the time of the predecessor application as ‘*of no use for commuting*’ even when it did exist) has been stopped since the time of first decision, so this application would not locate housing where it can make use of an effective bus network - as there isn't one.

b) The FNDP - Policy FRES 15 Transport and Highway Safety provides: ‘*All new developments shall take opportunities to provide safe and attractive pedestrian and cycle links that connect to existing networks appropriate to the scale and location of the development and seek to improve levels of walking and cycling in the Neighbourhood Plan area.*’

As there is no longer an existing bus ‘network’ to which pedestrian and cycle links can be provided, this application conflicts with that policy.

c) The NPPF - Both the existing development plan policies and the FNDP are consistent with the NPPF para 103 which states: ‘*Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.*’

The NPPF also cites policies protecting areas at risk of flooding or conservation areas as providing a clear reason for refusal, under paragraph 11 d)(i).

On 12th March 2020 the government issued [guidance](#) reinforcing their steer towards housing on brown field sites and signalling further reforms to ‘*encourage greater building within and near to urban areas.*’ This national signal that houses need to be built where jobs can be found and travel can be reduced, cannot be ignored.

3.2 Prioritising pedestrians for their safety

a) MSDC - Policy T10 (retained June 2016) requires consideration of inter alia

- *the suitability of existing roads giving access to the development, in terms of the safe and free flow of traffic and pedestrian safety;*
- *whether the amount and type of traffic generated by the proposal will be acceptable in relation to the capacity of the road network in the locality of the site;*



Exit from proposed footpath from site onto New St, looking East and West

- *whether the needs of pedestrians and cyclists have been met, particularly in the design and layout of new housing and industrial areas. Cycle routes and cycle priority measures will be encouraged in new development.*

T12 states that the needs of people with disabilities must be accommodated.

b) FNDP – The application does not provide ‘*safe and attractive pedestrian*

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links', let alone cycle links, to connect to New St., as FRESS15 requires. The inset photograph shows the poor level of visibility in both directions along New St. from the proposed footpath, which the extra 41 residents to be expected from 18 new houses on Post Mill Lane, would use to reach the shop, pubs, churches and other facilities on foot. This footpath, as the inset photos illustrates, emerges at the top of a curve facing away in both directions, limiting visibility greatly. Faced with this level of danger, residents are more likely to drive there as some already do as the SAFE survey described below reveals, increasing the level of danger for those without cars, including children walking alone, even further.

c) The NPPF – These policies are consistent with the NPPF which at paragraph 110 requires developments to:

a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use; - there is no 'prioritisation' of pedestrians offered by this development, as they will have to negotiate increased levels of traffic in already congested narrow roads in a village with no public transport at all

b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport – as the inset photograph shows the existing pavement width on Jubilee Corner is barely sufficient for a wheelchair user, let alone if accompanied, while New St is hazardous for people with buggies going to the school



c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and

Vulnerable pedestrians (Jubilee Corner & New St approach to Jubilee Corner

vehicles, avoid unnecessary street clutter, and respond to local character and design standards – the proposals to paint extra lines on the road in the conservation area, add Pedestrian in Road signs and inflict an increase in traffic on the area, in addition to what will be generated by the housing approved but not yet built, do not respond to the local character of the conservation area which was described in the MSDC Conservation Area Appraisal as 'notable for there being relatively little encroachment of inappropriate modern materials' and indeed compromise further the loss of the village's rural character as noted by the Appraisal: 'Overall, Fressingfield has remained relatively untouched, probably as a result of its relative isolation. It never developed a central 'commercial' area, and yet it is commercial influences that have done it most harm.'

d) allow for the efficient delivery of goods, and access by service and emergency vehicles – the inset photograph overleaf illustrates why this is often not possible with the current traffic flows, never mind when the cars another 41 residents are using these narrow streets, bearing in mind that the baseline illustrated will be increased by traffic from 51 houses and a new Baptist chapel, before then.

Paragraph 109 of the NPPF sets out the circumstances which would permit refusal of development on highways grounds:

- 'an unacceptable impact on highway safety'; or
- severe 'residual cumulative impacts on the road network'



Parking, congestion and deliveries outside the village shop New St.

As the new evidence presented below indicates, the impact on highway safety of this development would be unacceptable. An accurate analysis of the cumulative impact on the road network is required under the NPPF, but not possible because the impact of the 51 houses approved but not yet built has not yet been seen. However, given that even with the current baseline residents report very significant road safety concerns, such residual cumulative impact measured from the new baseline cannot but be severe.

[Government guidance](#) is clear that the NPPF cannot be ignored by the LPA without 'clear and convincing reasons'.

4. Material Considerations - According to the planning portal, in addition to government policy and the development plan including the NDP discussed above, material considerations include:

- Previous planning decisions (including appeal decisions)
- Highway safety
- Traffic
- Disabled persons' access
- Effect on listed building and conservation area

Evidence in relation to each of these is considered in turn below.

4.1 Previous planning decisions (including Appeals) - The Council's own decision on 1648/17 concluded that New St and Jubilee Corner are the core of the village such that any new housing will inevitably exacerbate existing hazards for pedestrians: *'Further traffic passing along New Street and/or through Jubilee Corner will result in an unacceptable impact on highway safety, particularly for vulnerable pedestrians. This risk is considered to be unacceptable and in its own right would significantly and demonstrably outweigh any benefits that would arise from the proposed development. The harm to pedestrian safety identified is contrary to Local Plan Policy T10 and contrary to Paragraph 109 of the NPPF.'* It is worth noting that the decision does not talk off traffic of a particular volume causing further problems, but merely 'further traffic' per se. This decision was made before the 51 houses approved and new Baptist Chapel have been built i.e. from an out of date baseline.

Two Appeal cases are also material considerations: APP/D3505/W/18/3197391 Land off Darking Road, Boxford and APP/W3520/W/18/3196561 Derry Brook Lane / Little London Hill, Debenham. These cases decided that Crashmap data alone was not adequate to determine road safety and that weight should be given to observed conflicts between pedestrians and vehicles. Despite this the Transport Assessment provided by the applicant merely states (para 2.4.5): *'the review of the available collision data has indicated that there are no inherent safety problems associated with the alignment of the local highway*

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network within Fressingfield’, ignoring the requirement to seek more evidence than the collision data imposed by those precedents.

The assessment of the pedestrian routes within the village carried out for the applicant, bizarrely, excluded *‘the personal safety of children travelling alone is not considered.’* This does not seem an appropriate exclusion in a small village with a primary school and children being dropped off by the school bus from secondary school, and walking home for the bus stop. Why is the personal safety of an 11 year old walking home from the school bus not relevant to assessing pedestrian safety? There is no such exclusion in in the NPPF. The reference to ‘step offs’ is equally bizarre. There is no planning justification for refusing a householder permission to put a gate across their driveway whenever they wish. How can people trespassing on the land of others to avoid hazardous traffic possibly be put forward as a justification for permitting such a hazard?

SCC’s response to this application erroneously states that there is no proposed new footpath joining the planned development to New St – an error also made in their response to the predecessor application. In fact, as the Applicant’s Pedestrian Route Assessment clearly states, *‘Potential changes to the pedestrian network would include the provision of a new footway from the proposed residential development to New Street (emerging opposite the New Methodist Church, ’* which is illustrated in Figure 4 of the Assessment. Use of the term ‘footway’ instead of ‘footpath’ may have led to this being missed by SCC. This footpath is the one that is illustrated on the photos on page 3, but it has not been assessed by SCC in their response. To consider this application in the absence of a view from the statutory consultee on highways on the safety and suitability of the footpath that new residents would be expected to take to reach all village amenities, would seem unwise, especially in the face of photographic evidence that visibility is very poor.

There is existing and new evidence on observed conflicts, as described below, and these support the weight to be given to the material consideration of highway safety, even without the strengthening arguments provided by the policies described above.

An Appeal against the refusal of the predecessor application was dismissed on heritage grounds on 25th September 2019. The Inspector however stated that *‘Whilst I acknowledge concerns from the Council and local residents on this matter, the Council accepts that there is a low incidence of reported accidents in this area. Furthermore, there is little substantive evidence before me to demonstrate that the proposal would result in pedestrian and highway safety concerns.’* This conclusion on the evidence has been challenged through the Planning Inspectorate complaints process and the Parliamentary Ombudsman and a result is awaited.

4.2 Highway safety and Traffic – Evidence provided by the statutory consultee, SCC, to the predecessor application is compelling. Nothing has changed in the level of traffic in the

Sample Comments from Respondents to SAFE Survey

“There is no pavement on New Street, making it very unsafe when walking with my children and dog during the day. When it gets dark, I refuse to walk with my children at all on this area of the village, the cars speed down this road, and it’s hard to be seen without adequate lighting.”

“Walking in the dark down New Street is completely unsafe with young children due to no footpaths. Walking on any road with no footpath, a pushchair and a child is hard as there isn’t always anyway of getting the pushchair off the road out of the way of the traffic.”

“I always feel unsafe on New Street because cars, lorries, buses, farm vehicles can come along at any time and if caught out in one of the many spots where there is no pavement it is very scary. I have to crisscross the road to get to the safety of grass strips or driveways to avoid being stuck at one of several blind spots and places where walls and fences abut the road.”

“Crossing the road opposite the Drs [New St] is already an issue as the pavement stops and you cannot look to see if the road is clear before stepping out. I have several near misses with people nearly hitting me and my children.”

“Walking with a buggy makes me nervous because of the volume of traffic in the village. If I can’t see them, they can’t see me”

“Because New Street is narrow and there are no pavements along most of it I have to walk on the road when accessing essential services (shop, Doctors’ Surgery). Often there are wide loads of farm vehicles (tractors with trailers loaded with hay bales, combines etc.) which need pedestrians to flatten themselves against buildings (e.g. Woodyard Cottage).”

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village since that evidence was provided. For example, in their comments in November 2018 they described the current hazards in New Street *'Pedestrians exiting from the footway north of Woodyard Cottage have poor visibility to either side and step straight onto the carriageway. Pedestrian barriers are present to restrain pedestrian but constrain the footway for those with pushchairs, wheelchairs or mobility scooters. No footways are present on New Street resulting in pedestrians walking in the road. During the site visit a number of pedestrians, some elderly, were observed walking to the local shop. When vehicles approach there was a tendency for pedestrians to step into private driveways when possible. Where parked cars were present pedestrians often must walk into the road around them. When two cars meet one must stop if a pedestrian is in the road and no driveway is present. Having examined the site, it is difficult to see how significant lengths of footway could be provided without reducing road widths and relocating on street parking. The presence of buildings abutting the road places further limitations as existing thresholds will need to be maintained.'*

Sample Comments from SAFE Survey Respondents with impaired mobility or disability

"My 91 year old mother who needs a walking aid walks to the shop daily & is at risk due to no footpath & volume of traffic. It's an important part of her physical & mental health to be able to talk this daily walk."

"At 87 I am not completely mobile so have to use my car to attend the shop and the surgery."

"I currently struggle to walk even a short distance and have to stop frequently to catch my breath. Thus, I cannot move quickly to avoid traffic."

'While it is noted the few crashes have been recorded in this part of Fressingfield recent planning appeals have determined that weight should be given to observed conflicts between pedestrians and vehicles. It is the Highway Authority's opinion that this is the case on New Street and Jubilee Corner if further development were approved which increased pedestrian and / or vehicle movement through the core of the village without the provision of safe, practical alternatives.'

It is the Highway Authorities opinion that further traffic passing along New Street and / or through Jubilee Corner would result in an unacceptable impact on highway safety particularly for vulnerable pedestrians.'

Again, reference is to *'further traffic'*, not traffic of a particular volume.

The inset photo of the damage done to The Forge, which fronts onto Jubilee Corner, in July 2020 illustrates how the particular characteristics of the village, as a through route for large agricultural and delivery traffic, increases hazards for residents and indeed, their property. There is only so much traffic that the village can take - and no amount of mitigation can change that.



Damage to the Forge at Jubilee Corner by a passing vehicle July 2020

4.2.1 SAFE Road Safety Survey – Additional evidence is now available in relation to this application through a survey of residents conducted by SAFE in January 2020, on their experiences of using the roads

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in the village as pedestrians. This evidence was not available at the time of the Appeal which was decided on 6th August 2019.

The survey was conducted between 11th and the 30th January 2020. There were 104 respondents, of whom

- 99 live in the village
- 7 also work there
- 11 have children attending the primary school
- 5 do not live in the village but regularly use its facilities, such as the GP surgery, bowls club, shop

Most respondents were of working age (between 17 and 65) with 44% (46) over 65. 5 respondents sometimes walked with a pram or buggy (two of whom also walked with some difficulty).

The following findings are evidence of the highway safety problems which require this application to be dismissed, especially as it is derived from experiences *before* the 51 houses and Baptist Chapel approved but not yet built start to increase the traffic, both vehicular and pedestrian:

- **High levels of car ownership** - All but two respondents owned a car, with 40 having one but 69% (62) had two or more cars in their household. This pattern of car ownership is likely to be repeated among the new residents, leading to 89 cars from the 51 new houses (in addition to cars for those attending the Baptist Chapel) and a further 31 cars from the 18 houses proposed in the subject application. This is without considering the cumulative impact (as the NPPF requires) with the other two pending applications (DC/05740 and DC/19/05741) for a total of 48 further houses.
- **Feeling unsafe when walking in the village** – 62% (64) of respondents often felt unsafe when walking in the village and a further 22% (23) always felt unsafe. This is striking evidence of hazards for pedestrians even at the current levels of traffic. 83 comments indicated New St including the shop location as areas where they felt unsafe. New St is the street onto which this application abuts and which will be most closely affected by it. This was followed by Jubilee Corner (36 comments) which is at the end of New St and the main junction in the village.
- **Sustainable walking behaviour already at risk** - While 73% of respondents said they usually walk *within* the village (rather than to or from it), rather than drive, the impact of traffic on this environmentally beneficial and healthy walking patterns could already be seen. Even with current traffic levels, one person said they rarely felt unsafe because they preferred to drive to avoid walking in heavy traffic. Another said he and his wife try to avoid walking in the village after dark because of the danger of passing traffic. The inset comments show the levels of hazard experienced by those who still walk.

4.3 Disabled Persons' Access - There was good mix of mobile and less mobile respondents with two disabled people and another 17 who walked with some difficulty. The comments in the inset boxes illustrate people's experiences of the hazards for vulnerable pedestrians at the current levels of traffic and housing.

5. Effect on listed building and conservation area - Paragraph 198 of the NPPF requires consideration of the impact upon heritage assets such as the Fressingfield Conservation Area, of development: '*Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.*'

Sample Comments from SAFE Survey Respondents with impaired mobility or disability

"At Jubilee Corner. I am a bit hard of hearing and really have to stop, look, and listen traffic comes this corner. Also if I am driving, trying to get out of Church Street onto the road can be a bit scary because of the speed of traffic coming round the corner."

"I was however recently a wheelchair user due to an accident and found it impossible to safely get myself to the shop."

"New street is a nightmare as no path. Jubilee corner has a path, but my wheelchair barely fits on it and its cracked and at an angle. Laxfield Road is better but has cracks big steps etc none of the paths in Fressingfield are appropriate for a wheelchair, so I often am pushed on the road."

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Fressingfield has 58 listed buildings and New St runs through its conservation area. The village was described as *'without any urban feel to it,'* in the MSDC Conservation Area Appraisal. The impact of an increase in traffic of some 31 cars as a result of the 18 proposed houses, on top of the 81 to be expected from the 51 houses approved but not yet built, will be very considerable and puts this heritage at risk. The photographic evidence above shows the level of compromise already occurring. This point was reinforced in the more recent Sensitivity assessment conducted for the Joint Local Plan consultation, which stated that on Fressingfield: *'The central historic core is of unusual layout, and incorporates an important cluster of buildings associated with the Church of St. Peter and St. Paul. These buildings are high significance and their interrelationship is still visually and physically evident. However, the overall character of the settlement has suffered heavily from considerable amounts of unsuitable modern development, particularly to the west and south of the settlement.'* The impact of the traffic generated by the existing, approved and proposed levels of development on this precious heritage character must not be ignored. The impact of more traffic, Pedestrian in Road signs and *'different surfacing and carriageway markings to highlight the change in speed limit'* as proposed by the applicant in New St are all more appropriate to a location than a small historic village. The impact of the traffic (including extra noise, pollution) - and supposed mitigations for it - on the character of a heritage asset, and the suitability for the pedestrian usage which has characterised this small historic village for hundreds of years, is critical.

6. Climate Change – Paragraph 102 of the NPPF requires that in consideration of proposals *'the environmental impacts of traffic and transport infrastructure be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains.'* It is hard to identify any environmental gains to be derived from introducing yet more houses and traffic to a location without employment or major services and facilities, thus generating yet more traffic, at the same time as the only bus service has been removed. This exacerbates carbon emissions at a time when a legally binding target for net zero carbon is fast approaching and there is a 2012 county target to reduce carbon emissions by 60% (on 2004 levels) by 2025. This development and the traffic it will generate will hinder achievement of such targets.

6. Conclusion – As stated at the start of this paper, there really does not seem to be any policy - national or local - to support this development and much evidence of material considerations linked to road safety and traffic, which would make it irrational to do other than refuse it.