

# Forest Heath District Council

**DEVELOPMENT  
CONTROL  
COMMITTEE**

**1 OCTOBER 2014**

**DEV14/139**

**Report of the Head of Planning and Regulatory  
Services**

**PLANNING APPLICATION DC/14/0632/OUT- LAND NORTH OF  
MILDENHALL ROAD, WEST ROW**

## **Synopsis:**

Application under the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 and associated matters.

## **Recommendation:**

**It is recommended that the Committee determine the attached application and associated matters.**

## **CONTACT OFFICER**

Case Officer: Peter White  
Tel. No 01284 757357

# Committee Report

---

**Parishes:** West Row **Committee Date:** 1<sup>st</sup> October 2014.

**App. No:** DC/14/0632/OUT **Date Registered:** 9<sup>th</sup> May 2014

**Expiry Date:** 8<sup>th</sup> August 2014

**Proposal:** Outline application – residential development of up to 26 dwellings with new vehicular access and creation of a new footpath link along Mildenhall Road (Major Development and Departure from the Development Plan)

**Sites:** Land North Of Mildenhall Road, West Row, Suffolk

**Applicant:** Mr Matthew Potter

---

## **Section A – Background and Summary:**

- A1. This application was deferred from consideration at the Development Control Committee meeting on 3<sup>rd</sup> September 2014. Members resolved they were 'minded to refuse' planning permission contrary to the officer recommendation of approval. Members were minded to refuse permission contrary to the recommendation on the grounds of pedestrian safety when travelling from the development to the village centre/amenities and facilities via the junction of Beeches Road and Mildenhall Road. Additionally the safety of the proposed vehicular junction was highlighted as having concern.
- A.2 The previous Officer report for the September 2014 meeting of the Development Control Committee is included as Working Paper 1 to this report. Members are directed to this paper in relation to site description, details of development, details of consultation responses received etc.
- A3. This report seeks to further discuss highway safety, with particular attention to the proposed vehicular access and pedestrian safety. A written submission has been received from the applicants Consulting Engineer which has been reviewed from the Highway Authorities Senior Development Management Engineer and includes a risk assessment of the potential reasons for refusal.
- A4. The officer recommendation, which is set out at the end of this report remains that planning permission should be granted.

## **Section B – General Information:**

### **Application Details:**

- B1. Please refer to Working Paper 1, paragraphs 1 to 3 for a description of the application proposals.

### **Site Details:**

- B2. Please refer to Working Paper 1, paragraphs 5 to 9 for a description of the application site area.

### **Application Supporting Material:**

- B3. Please refer to Working Paper 1, paragraphs 10 to 11 for further details of the material submitted with the planning application.

### **Relevant Planning History:**

- B4. Please refer to Working Paper 1, paragraph 12 for details of relevant planning history.

### **Consultations:**

- B4. Please refer to Working Paper 1, paragraphs 13 to 23 for details of consultation responses received. Any further consultation responses received will be reported verbally to the meeting.

### **Representations:**

- B5. Please refer to Working Paper 1, paragraphs 24 to 25 for details of representations received.

### **Policies:**

- B6. Please refer to Working Paper 1, paragraphs 26 to 32 for details of relevant policies.

### **Officer Comment:**

- B7. Please refer to Working Paper 1, paragraphs 33 to 92 for a comprehensive officer assessment of the application proposals. The officer assessment remains unchanged following the Development Control meeting on 3<sup>rd</sup> September.

## **Section C - Risk Assessment**

- C1. The main purpose of this report is to inform Members of the risks associated with the 'of mind' resolution to refuse planning, given that a refusal of planning permission would be contrary to officer recommendation.

- C2. As set out in the Background section of this report, Members deferred their consideration of this planning application from the 3<sup>rd</sup> September meeting of Development Committee. Members are 'of mind' to refuse planning permission on grounds of i) highway safety dangers for pedestrians, ii) highway safety dangers by the vehicular access.
- C3. The remainder of this report discusses the potential reasons for refusal cited by Members before discussing the likely implications of a refusal of planning permission on these grounds.

#### **Section D - Potential Reason for Refusal 1; Highway safety:**

D1. Members should also refer to attached Working Paper 1

D2. ***Have there been any further developments or changes in circumstances which Members need to consider? –***

- Yes, further technical clarification has been received from the applicant's consultants and this is shown as Working Paper 2. The assessment is produced by Sanders Associates (Consulting Engineers). The entire submission can be read at Working Paper 2. It is broadly set into two parts. Part 1 discusses the proposed vehicular access to the site and part 2 discusses pedestrian safety at the corner of Mildenhall Road and Beeches Road.
- In regards to the pedestrian safety issue the report sets out that;
  1. The extent of carriageway without footway would be in the order of 25m, which at the recommended walking speed would take a pedestrian only 21 seconds to negotiate (this equates to a speed of less than 3mph)
  2. The level of pedestrian movement during the peak traffic periods is low and in the order of only 9 and 5 two way person movements in the morning and evening peaks respectively.
  3. The level of additional traffic generated by the proposed development is modest in both peak hours and in numerical terms is very low (8 movements in either direction) when distributed evenly onto the local road network.
  4. The present layout of the Mildenhall Road/Beeches Road junction although not to modern standards operates satisfactory as reflected in its official accident record over a period of 7 years. The layout of the junction is visible to drivers and its geometry acts in reducing approach speeds both to and from Beeches Road.
  5. The proposed off site works provide a significant improvement over the existing situation and will benefit not only the users of the proposed development but existing pedestrian users of Mildenhall Road.
  6. Measures to mitigate against the lack of the short length of "missing footway" have been suggested by the Local Highway Authority and are appropriate to the situation. Both these measures and the offsite footway to Mildenhall Road can be provided by the Applicant under a Section 278 Agreement (Highways Act 1980) and can be the subject of a specific planning condition.
- Point 6 above relates to signage that would be used and is shown on Working Paper 3.

- The report also covers visibility splays from the proposed vehicular access. It states that In accordance with *Manual for Streets* within a 30mph zone a distance of 43 metres is required where the 85<sup>th</sup> percentile wet weather approach speed of vehicles is known. In this instance however no speed surveys have been carried out to verify that vehicles are not travelling at higher speeds. Following this the Highway Authority have requested that the sight lines are provided in accordance with the higher standards set out on the *Design Manual for Roads and Bridges*. This requires a sight line of 90 metres which the applicant has confirmed will be provided. Proposed Condition 9 would require this 90 metres visibility.

D3. ***What does the Highway Authority say? –***

- The additional report and the information submitted (Working Paper 2) by the applicant appears to be correct
- The accident data is correct, I have checked this myself on our system where data is supplied to SCC by police reports and since our records begun 1.1.2005, there has been one slight injury accident some distance from the site caused by a driver swerving to avoid an animal. Accident data will record all injury incidents recorded by the Police. Therefore this will include any Road Traffic Accidents that have included American Personnel.
- The addition of the extra pedestrian footway provision across the frontage of the site was requested after the Highway Engineer witnessed on site pedestrians with buggies and small children walking in the road for the full length of the site. The site proposals will make this journey safer for them.
- The proposal is providing footway from the site to as far as conceivably possible along Mildenhall Road, giving more provision to existing pedestrians and proposed footway users in the future. The extra signing and road markings will make drivers and pedestrians aware of the lack of footway for the short distance which is left on Mildenhall road.

D4. ***What is the officer view? –***

- Officers are of the opinion that the scheme is acceptable for the reasons set out in the officers report (Working Paper 1). Specifically the issue around highway safety.
- The Highway Authority have highlighted that there are pedestrians that use the road currently and that the construction of footpaths in the area will improve highway safety for them and future residents in the area. This is considered to be a benefit of the scheme. The break in footpath will be 25 metres and can be bridged in approximately 21 seconds which is not considered to be significant.
- Accident record data clearly shows that there have been no accidents (slight, serious or fatal) in just under 10 years at or within 100 metres of the Beeches Road/ Mildenhall Road junction. The new footpath and

signage will assist in making drivers and pedestrians aware of the lack of footway for the short distance which is left on Mildenhall road.

- There is no issue with the proposed vehicular access as it would be served by sight lines of 90 metres in each direction and there is no evidence to substantiate that it can be considered unsafe.
- Officers consider a refusal of planning permission on pedestrian safety would be difficult to defend at an appeal given the lack of support from the Highway Authority and the evidence submitted to support the proposal.

### **Section G - Implications of a refusal of planning permission:**

- G1. It is likely that should Members subsequently resolve to refuse planning permission the applicants will appeal that decision.
- G2. Officers consider that it would be difficult to defend a refusal of planning on highway safety grounds.
- G3. A refusal of planning permission for any development on weak grounds is likely to lead to planning permission being granted at appeal. This outcome could have significant implications for the Council.
- G4. Firstly, the Council's reputation would be adversely affected by its inability to properly defend its reasons for refusal at appeal.
- G5. Secondly, if a Local Planning Authority experiences more than 20% of its major development appeals allowed in any two-year period, it is deemed a failing authority and would face Government sanction. This would include introduction of a right for applicants proposing major development to submit planning applications directly to the Planning Inspectorate, effectively taking the decision making power out of the hands of the Local Planning Authority.

### **Section H – Conclusions:**

- H1. Members should also have regard to paragraphs 33 to 92 of the attached Working Paper 1 where officer conclusions and assessment of the application are set out.
- H2. Officers are of the opinion that in light of the concerned that the Committee resolution that Members are 'of mind' to refuse planning permission for this development on grounds of highway safety would be weak grounds for refusal and would be difficult to defend.
- H4. In considering the merits of this planning application, Members are reminded of the requirements set out in the National Planning Policy Framework for the decision maker to balance the benefits of the proposed development against its dis-benefits and only where those dis-benefits would significantly and demonstrably out-weigh the benefits should planning permission be refused (reference paragraph 14 of the National Planning Policy Framework).

H5. In this case, it is considered that dis-benefits of development are significantly outweighed by the benefits of development proceeding and clearly points to the grant of planning permission in this case.

### **Section I – Recommendation:**

I1. The application was supported by a unilateral undertaking. The agent has stated that the signing of a S106 agreement to secure appropriate mitigation is entirely acceptable to his client. That outline planning permission is **granted** subject to the following figures which are all “up to”:

I2.

#### **The completion of a S106 agreement to secure:**

- Affordable housing - 7 units; contribution for 0.8 units
- Primary school contribution -£85,267 (indicative)
- Pre school contribution - £18,273
- Libraries contribution - £5,616
- Open space contribution - £135,315
- The implementation of the complete footpath as shown on drawing no. WR – MR – 1.2 – Rev A before the first house is occupied

In the event that there are any substantive changes to the S106 package, then this will go back to Members for consideration.

#### **And the following conditions:**

1. Outline time limit
2. Reserved Matters to be agreed (appearance, scale, layout [including internal site layout of roads and ways] and landscaping)
3. Compliance with approved plans
4. Highways – details of proposed access
5. Highways – details of bin storage
6. Highways – details of surface water drainage
7. Highways – details of carriageways and footways
8. Highways – details of car parking and manoeuvring areas, including cycle storage
9. Highways – details of visibility splays
10. Highways – details of estate roads and footpaths
11. Retain garage/ parking spaces
12. Archaeology – investigation and post investigation assessment
13. Contamination – Work required if contamination is discovered
14. Development carried out in accordance with predicted energy and CO2 savings
15. Detailed drainage details

16. Construction management plan – to include details around hours of work, hours that generators are used, no burning, and dust management strategy
17. Details of the Air source heat pumps noise and location to be submitted to and agreed in writing with the LPA
18. Details of boundary treatment
19. Samples of materials
20. Detailed scheme of hard and soft landscaping to be agreed and implemented.
21. Recommendations of Ayers Tree Services Tree Survey dated 8/5/2014 to be implemented
22. Recommendations of Ecological Report to be implemented
23. Details of ecological enhancements to be submitted to and agreed and implemented
24. Provision of fire hydrants
25. Details of the Sustainable Urban Drainage Strategy to be agreed and implemented.
26. Waste minimisation and recycling strategy

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online.

Alternatively, hard copies are also available to view at Planning, Planning and Regulatory Services, Forest Heath District Council, District Offices, College Heath Road, Mildenhall, Suffolk IP28 7Y

Case Officer:

Peter White

Tel. No 01284 757357