



St Edmundsbury
BOROUGH COUNCIL

DEV/SE/16/043

Development Control Committee

2 June 2016

Planning Application DC/16/0163/FUL

Land south of Bobby's Way, Stanton

Date	27 January	Expiry Date:	Extension of time
Registered:	2016		agreed until
			13 May 2016
Case	Marianna	Recommendation:	Refuse
Officer:	Christian		
Parish:	Stanton	Ward:	Stanton

Proposal: Planning Application - 2 no. dwellings with car ports and parking.

Site: Land south of Bobby's Way, Stanton, IP31 2FE

Applicant: M and D Developments

Synopsis:

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

Recommendation:

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

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Background:

1. This application was deferred from consideration at the Development Control Committee meeting on 4 May 2016. Members resolved that they were minded to grant planning permission contrary to the officer recommendation of refusal. At this point, the risk assessment protocol was invoked requiring the further reporting of this matter before a decision is able to be made.
2. A Committee site visit was undertaken on 28 April 2016 at which time Members observed the footings of two dwellings previously occupying the site in 1962 which had recently been uncovered. At the subsequent Development Control Committee meeting on 4 May 2016 Members considered that the former dwellings on the site were part of a cluster and that the proposal would provide a recognisable end to the housing estate. Members considered that the proposal would not create a precedent for further development into open countryside.
3. The purpose of this report is to provide a risk assessment for Members in accordance with the Decision Making Protocol, should planning permission be granted for the development contrary to the officer recommendation having regard to its conflict with Policy DM27.
4. The previous officer report for the 4 May 2016 meeting of the Development Control Committee is included as Working Paper 1 to this report. Members are directed to this paper for details of the site and development, summaries of consultation responses and neighbour representations, and for the officer assessment of the proposal.
5. The officer recommendation, which is set out at the end of this report, remains that planning permission should be refused for the reason set out.

Proposal:

6. Please refer to Working Paper 1, Paragraph 1 for a description of the proposal.

Application Supporting Material:

7. Please refer to Working Paper 1, Paragraph 2 for details of the information submitted with the application.

Site Details:

8. Please refer to Working Paper 1, Paragraphs 3-4 for a description of the site and surroundings.

Planning History:

9. Please refer to Working Paper 1, Paragraph 5 for a summary of the relevant planning history.

Consultations:

10. Please refer to Working Paper 1, Paragraphs 6-12 for a summary of consultation responses received.

Representations:

11. Please refer to Working Paper 1, Paragraphs 13-14 for a summary of representations received including the Ward Member's comments.

Policy:

12. Please refer to Working Paper 1, Paragraphs 15-19 for a list of policies and guidance that have been taken into account in the consideration of the application.

Officer Comment:

13. Please refer to Working Paper 1, Paragraphs 20-35 for the officer assessment of the proposals.

Risk Assessment:

14. The purpose of this report is to advise Members of the risks associated with the 'minded to' resolution to grant planning permission for the development proposal, having regard to the conflict with Policy DM27 in this case and the officer recommendation to refuse planning permission. For the reasons set out in this report it remains officers' recommendation that permission be refused. If Members remain minded to approve the application, they must be satisfied that any risks associated with doing so have been properly considered.

15. Members will recall that the previous officer recommendation was to refuse planning permission for the following reason:

The National Planning Policy Framework (NPPF) states that planning should recognise the intrinsic character and beauty of the countryside and actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus development in sustainable locations (para. 17). Local Planning Authorities should avoid isolated new homes in the countryside unless there are special circumstances. Core Strategy Policy CS4 states that development outside of the settlements will be strictly controlled, with a priority on protecting and enhancing the character, appearance, historic qualities and biodiversity of the countryside while promoting sustainable diversification of the rural economy. Policy DM5 of the Forest Heath and St Edmundsbury

Local Plan Joint Development Management Policies Document states that areas designated as countryside will be protected from unsustainable development, and restricts new residential development in such locations to affordable housing for local needs, dwellings for key agricultural, forestry and commercial equine workers, small scale residential developments of small undeveloped plots in accordance with Policy DM27 and the replacement of existing dwellings. Policy DM27 sets out the circumstances where small scale residential developments in the countryside will be permitted.

The application site is within the countryside for planning purposes, being outside of the defined settlement boundary for Stanton. The site lies adjacent to a row of housing and forms part of a larger area of open space with agricultural land beyond. The site is not therefore within a cluster of dwellings and the proposal would not constitute the infilling of a small undeveloped plot within an otherwise continuous built up frontage, as permitted under Policy DM27. The proposal furthermore does not meet any other special circumstances for residential development in the countryside set out within the NPPF and Policy DM5. The development would erode the existing countryside setting in this location to the detriment of the character and appearance of the area. In addition, the site's location outside of the village of Stanton would require future occupiers of the proposed dwellings to travel to the village and beyond to access shopping, education, employment, recreation, and social facilities. The majority of these journeys would foreseeably be by car. The proposal for two new dwellings in this countryside location therefore represents an unsustainable form of development.

For the above reasons the proposals are considered contrary to Policies CS2, CS3 and CS13 of the St Edmundsbury Core Strategy (December 2010), Policy RV1 of the Rural Vision 2031 (September 2014), policies DM1, DM2, DM5 and DM27 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (February 2015) and the National Planning Policy Framework.

16. If Members remain of the opinion that this application should be approved, they must be aware of any potential risks that may arise. The most significant potential risk in this case is reputational, as development is permitted that is otherwise plainly contrary to the provisions of adopted policy.
17. Officers consider the development proposed in this case to be contrary to policy. Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require decisions to be made in accordance with the development plan unless there are material considerations that indicate otherwise. This risk arising is reputational unless effective justification can be given for setting aside this clear policy conflict.
18. A further significant risk is the effective weakening of the policy position. As decisions are taken that conflict with the clear aims and spirit of the policy, which seeks to ensure infill development is 'within' existing

clusters, then the effectiveness of the policy is reduced and it becomes increasingly difficult to resist similar proposals in similar circumstances. The rationale behind the policy is to support the aims of Para. 55 of the NPPF which seeks to avoid isolated homes, and is an up to date policy which post dates the NPPF indicating both its relevance and also the weight that can be attached to it. Any conflict with such must therefore be given significant weight.

19. The application site is within the countryside for planning purposes, being outside of the defined settlement boundary for Stanton. Within its core planning principles (at paragraph 17) the NPPF requires the recognition of the intrinsic character and beauty of the countryside and the need to actively manage patterns of growth and focus significant development in sustainable locations. In addition the NPPF at paragraph 55 seeks to promote sustainable development in rural areas.
20. Core Strategy Policy CS4 states that development outside of the settlements will be strictly controlled, with a priority on protecting and enhancing the character, appearance, historic qualities and biodiversity of the countryside while promoting sustainable diversification of the rural economy.
21. JDMP Policy DM5 states that areas designated as countryside will be protected from unsustainable development. Policy DM27 allows small scale infill development in the countryside where the following criteria are met:
 - a) the development is within a closely knit 'cluster' of 10 or more existing dwellings adjacent to or fronting an existing highway.
 - b) the scale of development consists of infilling a small undeveloped plot by one dwelling or a pair of semi detached dwellings commensurate with the scale and character of existing dwellings within an otherwise continuous built up frontage.
22. The application site in this case is located at the end of a row of bungalows with open countryside beyond, and is not therefore 'within' a cluster of dwellings as set out in Policy DM27.
23. The application site also forms part of a larger piece of land, as illustrated by an earlier application for 4 no. dwellings ref. SE/12/1696/FUL. A copy of the site plan for that application is included as Working Paper 2 to this report. Officers consider therefore that the site does not comprise a 'small undeveloped plot' as set out in Policy DM27 as it forms part of a much larger area of open land.
24. The proposal furthermore cannot be considered as 'infill' development 'within an otherwise continuous built up frontage' given the open countryside and the absence of any existing dwellings to the south of the site.
25. For the above reasons, the proposal does not comply with Policy DM27. Given this conflict with the development plan, Members must be satisfied that there are material considerations that warrant a grant of planning

permission in this case should they remain minded to approve the application.

26. Whilst the appeal decision relating to application SE/12/1696/FUL pre-dates the adoption of the Joint Development Management Policies, including Policy DM27, it post dates the NPPF and raises matters which remain relevant to the consideration of this application. A copy of the appeal decision is included as Working Paper 3 to this report.
27. Members will note that the previous existence of dwellings on this site up until 1962 was considered by the appeal Inspector (paragraphs 8 and 15 of the decision refer) and was afforded little weight when assessing whether new residential development was appropriate in this location. Excavation works have since been carried out on the site and have revealed the footings of these earlier dwellings. Officers remain of the opinion however that the previous existence of dwellings in this location does not outweigh the conflict with policy outlined above, particularly given the very considerable period of time that has lapsed since the dwellings were in situ.
28. Members will also note that the appeal Inspector considered the sustainability of the site's location (paragraphs 11 and 12 of the decision refer). The site is considered to be relatively remote from the main settlement of Stanton with its associated services and facilities, and officers concur with the Inspector's view that the occupiers of the dwellings would likely be dependent on the use of the private car for access to most needs and services, and that there would therefore be conflict with the underlying intention of the NPPF and local policies which aim to direct development to the most sustainable locations. The existence of public footpaths to and from this site to Stanton does not alter this conclusion as it is an argument that could be repeated too often in other circumstances.
29. For the reasons outlined above therefore and also set out within the original report to Development Control Committee, officers remain of the opinion that there is a clear conflict with Policy DM27 in this case, and with the wider objectives embodied in both national guidance and local policy in relation to sustainable development in rural areas. Officers furthermore consider that there are no material considerations that indicate a decision should be made contrary to the development plan in this regard.
30. The proposal would in effect extend an existing cluster of housing into the countryside, and is therefore at odds with the spirit of Policy DM27 which allows the infilling of small sites *within* existing clusters, thereby safeguarding the surrounding open countryside. Officers consider that this form of proposal could be readily repeated in similar circumstances, and that the granting of planning permission in this case would make it difficult to resist similar proposals in the interests of consistency in decision making. It will also lead to a weakening of the policy making it harder to resist proposals of a similar nature elsewhere. This would, in turn, result in further unsustainable development in the countryside and

the undermining of the principles of Policy DM27, which in turn supports the intentions of Para. 55 of the NPPF.

31. Officers are also mindful of the wider context in relation to Policy DM27. Not least in relation to application reference DC/16/0456/FUL elsewhere on this agenda, which is recommended for approval in circumstances where it is not considered to comply otherwise with Policy DM27. However, Officers are satisfied in that case that the fall back position of development immediately adjacent but 'within' the cluster that could otherwise be supported, plus the high quality design benefits in that case, warrant an exception to policy. There is no such similar cluster fall back in this case that can be considered similar and neither is there much weight to be attached in the balance of considerations to the quality of the design in this case.

32. Officers advice therefore is that approval of this application, where the proposal is plainly outside of the 'cluster', will weaken the ability of the Authority to resist similar schemes in the future, as the policy is in turn weakened. As advised, it is the spirit of the Policy, which seeks to allow development 'within' cluster, which Officers consider it is so important to protect. As advised, the reputational implications arising from a decision which otherwise plainly conflicts with Policy is also a risk that Members must be aware of in making a decision on this proposal.

33. For these reasons Officers counsel that the Committee considers this matter very carefully.

Conclusion:

34. It remains the opinion of officers that the proposal is contrary to policy, and that there are no material considerations to indicate that a decision should be made contrary to the development plan. This is reflected in the recommendation made below.

Recommendation:

It is **RECOMMENDED** that planning permission be **Refused** for the following reason:

The National Planning Policy Framework (NPPF) states that planning should recognise the intrinsic character and beauty of the countryside and actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus development in sustainable locations (para. 17). Local Planning Authorities should avoid isolated new homes in the countryside unless there are special circumstances. Core Strategy Policy CS4 states that development outside of the settlements will be strictly controlled, with a priority on protecting and enhancing the character, appearance, historic qualities and biodiversity of the countryside while promoting sustainable diversification of the rural economy. Policy DM5 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document states that areas designated as countryside will be protected from unsustainable development, and restricts new residential

development in such locations to affordable housing for local needs, dwellings for key agricultural, forestry and commercial equine workers, small scale residential developments of small undeveloped plots in accordance with Policy DM27 and the replacement of existing dwellings. Policy DM27 sets out the circumstances where small scale residential developments in the countryside will be permitted.

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For the above reasons the proposals are considered contrary to Policies CS2, CS3 and CS13 of the St Edmundsbury Core Strategy (December 2010), Policy RV1 of the Rural Vision 2031 (September 2014), policies DM1, DM2, DM5 and DM27 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (February 2015) and the National Planning Policy Framework.

Notwithstanding the above, should Members remain minded to approve this application officers recommend that the following conditions be imposed:

- 1) 1A Time Limit Detailed
- 2) 4F Facing and Roofing Materials
- 3) 12B Details of Boundary Treatment
- 4) 14FP Compliance with Plans
- 5) 18AA - Parking/Manoeuvring to be Provided

Documents:

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

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=O1LR5GPD MQA00>