



St Edmundsbury
BOROUGH COUNCIL

DEV/SE/16/62

Development Control Committee

1 September 2016

Planning Application DC/16/0473/OUT

Development Land, Brickfields Drive, Haverhill

Date: 21 March 2016 **Expiry Date:** 20 June 2016
Registered:

Case: Charlotte **Recommendation:** Approve
Officer: Waugh
Parish: Haverhill Town **Ward:** Haverhill North

Proposal: Outline Planning Application (Means of Access to be considered) - Residential development of up to 30 dwellings, associated garages, ancillary development, public open space and landscaping

Site: Development Land, Brickfields Drive, Haverhill

Applicant: Trustees Of The Vestey 1993 Settlement

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.

CONTACT CASE OFFICER:

Email: charlotte.waugh@westsuffolk.gov.uk
Telephone: 01284 757349

Update and risk assessment report

Background:

The application was deferred at the Development Control Committee meeting in July in order for a site visit to be undertaken. This took place on Thursday 28 July 2016. At the subsequent Committee meeting on 4 August 2016 Members were concerned that the proposal would have a detrimental impact on highway safety during the construction period due to current on-street parking levels, and also on the grounds that alternative access solutions may be available. On this basis members were 'minded to refuse' the application and as such, it was deferred further for a risk assessment to be undertaken.

The application was originally referred to the Development Control Committee due to a request from one of the Ward Members. The application is a major development and so was presented directly to Development Control Committee without first having been considered by the Delegation Panel.

The previous Officer report for the Development Control Committee meeting on 4 August 2016 is included as Working Paper 1 to this report and contains details of the proposal, site and consultation responses etc.

The Officer recommendation remains one of APPROVAL subject to the signing of a Section 106 Agreement.

Application details:

1. See the Committee report in Working Paper 1. This report was presented to members at the Development Control Committee meetings on 7 July and 4 August 2016. This report contains details of the proposed development, site description, summary of representations received as well as Officers consideration of the proposal.

Officer Comment:

2. Since consideration of the application last month the applicant has provided a further supporting statement as well as vehicle tracking data. This statement looks at alternative means of access to the site from: the north west direction (A), from the proposed 'North West Haverhill' development site (B) and from the proposed relief road (C).
3. Access from the north west (A) would either be over public open space or over land which is allocated to the relief road. Loss of the open space would not be encouraged and neither would the Local Authority want to risk prejudicing the delivery of the relief road and on this basis, option A is discounted.

4. Option (B) through the proposed 'North West Haverhill' development would carry similar land ownership issues, associated ransom costs and has the potential to affect viability of the scheme, not only through cost but through time delays due to the phased nature of the adjacent development. Furthermore, this option has the potential of simply displacing the scenario of construction vehicles passing residential dwellings as well as creating more trips through the proposed development.
5. Access from the relief road (C) would be the most difficult. A new slip road would carry a substantial cost and would mean that the relief road had to be built, completed and adopted prior to development commencing, which would mean a substantial delay. Additionally, opening the site up to the relief road is likely to create a 'rat run' through the development which Members and Officers are keen to avoid. On this basis, the applicant considers that the proposed access is still the most appropriate.
6. A Construction Management Plan is required by Condition 6. Additional information provided since the last meeting by the applicant states that any such construction management plan as may be submitted will include the following clauses:
 - Restricted time of delivery or use of HGVs associated with the development. This could be restricted to between the hours of 9:00am and 16:30pm, on Monday and Fridays only (discounting Bank Holidays).
 - Community liaison that would require affected members of the public to be made aware of approximate project milestone dates, delivery times and delivery dates etc.
 - That all affected residents are made aware of emergency contact numbers.
 - That wheel washing facilities and road cleaning is provided on site.
 - Noise and dust mitigation techniques, dry waste spraying etc.
 - Delivery Management to ensure that no deliveries arrive at the same time.
 - Specified routes for particular delivery vehicles.
7. This list is not exhaustive but demonstrates the type of mitigation measures which can be put in place through this condition. As members have noted previously, on-street parking is largely an issue in the evenings and not during the proposed construction access times of 9:00-16:30.
8. Vehicle movement information has also been provided which looks at estimated trips required for the delivery of goods, materials, equipment and construction vehicles. The statement concludes that up to 10 trips will

be required per unit resulting in a total of 300 trips overall during construction. Given that a 6-12 month construction period is anticipated (depending on the developer) this results in 2-3 lorry movements a day for 6 months or 1-2 lorry movements a day for 12 months. During peak activity which should be no longer than 20 days, up to 6 lorry movements a day may be experienced which can be restricted to between 10:00-16:00, although any such 'spike' in numbers over such a concentrated period of time would obviously lower the remaining average numbers spread out through the remainder of the year.

9. The following trip generation for each particular vehicle is expected;
 - A) Low-loader (13.15m long) - Up to 10 trips overall
 - B) Cement mixer (8.36m long) - Up to 1 trip per day / 3 trips per day during peak construction (approx. 20 days)
 - C) Large tipper (10.2m long) - Up to 1 trip per day / 3 trips per day during peak construction (approx. 20 days)
10. Whilst the vehicle tracking plans show the road widths are able to accommodate the necessary vehicles, due to their scale banksmen will be employed and it may be necessary to employ a temporary traffic regulation order to suspend on-street parking during working hours Monday to Friday to allow unhampered access. This would need to be agreed by the Highway Authority and would also be part of the formal construction management plan submission. All construction vehicles would have an agreed delivery time to avoid conflicts and it is anticipated that they would call ahead 10-15 minutes before arrival so they can be met by at least two banksmen to escort them through Hales Barn Road.
11. This additional information indicates an acceptable level of construction traffic throughout the build process as well as mitigation measures such as hours of deliveries, use of banksmen, road cleaning and liaison with the public. The management of effects such as this arising through the construction process is a routine element of the development process. Any adverse impacts arising will be temporary, and not of such significance so as to justify a refusal of planning permission.
12. If Members are still minded to refuse this application then officers are mindful about the potential risks to the Council and consider it helpful to set such out in this report.

Impact on Highway Safety

13. The detailed comments of the Highway Authority, which set out how the access proposals have been considered is set out within the report at Working Paper 1. However, the key points are repeated below for clarity.
14. The National Planning Policy Framework states that planning decisions should ensure developments that generate significant movement are

located where the need to travel will be minimised and the use of sustainable modes of transport can be maximised. The Framework confirms that development should only be refused on transport grounds where the residual cumulative impacts of development are severe. Furthermore, para. 203 states that Local Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions and obligations.

15. The Core Strategy Settlement Hierarchy (CS4) categorises Haverhill as a market town and is thus regarded as a 'sustainable' location which could support growth. Furthermore, the Haverhill Vision 2031 document identifies North West Haverhill as a strategic location for growth. Due to the size of the settlement it contains a range of services and facilities with the accompanying employment opportunities and on that basis, it must be assumed that some future occupants will use sustainable methods of transport. In respect of connectivity the site proposes a pedestrian link both to Mason Close, the public open space to the west and the proposed development to the East, as such, it will be well integrated within the site and allow easy access to the adjacent play area.
16. A single vehicular access point is proposed off Brickfields Drive which leads to Hales Barn Road. The Highway Authority was concerned that the current level of on-street parking in this location will prohibit visibility at this junction. As a solution it has recommended that a traffic regulation order (TRO) is sought which will remove the on-street parking in close proximity of the junction. The applicant has agreed to this procedure which involves investigation and consultation by the Highway Authority before the order can be served. This process would need to be undertaken prior to the commencement of development and is included within the Section 106 agreement and as a condition. The Highway Authority are satisfied that providing this TRO is implemented the access point is acceptable. A draft Section 106 has been compiled and the applicant has agreed to the contribution necessary to implement this procedure. Officers are satisfied that the use of the condition and legal agreement is sufficient to ensure that development will not commence until such time that this issue has been adequately resolved.
17. Further issues such as the means of preventing a right turn out of the new development have been discussed with various solutions put forward. The details of which will need to be provided to the Local Authority and approved under consultation with the Highway Authority before they can be implemented and again, this allows the Local Authority to retain control of these elements.
18. The application is in outline form only and as such, details of layout including parking within the site have not yet been provided. Whilst the existing development at Hales Barn contains allocated parking spaces to serve each dwelling, the highway parking standards have changed since this development was approved and now require a higher level of spaces. On this basis, the proposed development should experience less on-street parking than that existing. The reserved matters application will contain

these details which will need to comply with current adopted standards before it can be approved.

19. The Highway Authority is a statutory consultee in this case and its expert advice in relation to highway matters is given considerable weight. No objections have been received from it with regard to the proposed development and subject to the imposition of conditions the proposal is considered acceptable in terms of highway safety. It is considered that conditions such as the formal agreement to a construction management plan as well as the TRO will provide sufficient detail to address the concerns raised.

Risk Assessment

20. If Members remain of the opinion that this application should be refused then they must be aware of any potential risks that may arise. A significant risk is that the applicant will lodge a successful appeal which, if the Authority is unable to defend its reason for refusal, may leave it vulnerable to an award of costs.
21. The Local Planning Authority is required to defend any reason for refusal at appeal and this is clearly outlined in the National Planning Practice Guidance. This states that one of the aims of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, and not to add to development costs through avoidable delay.
22. Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:
- preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
 - failure to produce evidence to substantiate each reason for refusal on appeal
 - vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
23. Members concerns centred around issues of highway safety during construction, problems arising during the construction period such as noise, dust, hours of working, and construction traffic etc are not considered to be material impacts of development and therefore, this reason for refusal is not sufficient to withstand an appeal.
24. Members also commented on the position of the access itself and the impact this could have on highway safety, particularly when they felt that more suitable alternatives were available. However, the comments given

by the Highway Authority indicate that there are no technical grounds for refusing this application. It is Officers' opinion therefore, that any appeal would have a very reasonable prospect of success. Furthermore, it is considered that an award of costs against the Authority is likely on the basis that it is unable to objectively and robustly defend its reason for refusal. To refuse on the basis of highway safety impacts both during and after the construction period, when it is considered conclusively by the relevant Authority that there are no grounds for such, and on the basis that the fact that such effects are not material planning considerations therefore precludes consideration of such impacts, would most likely lead, in the opinion of Officers, to 'vague' and 'generalised' concerns being given through any appeal and which would be 'unsupported by any objective analysis'. For this reason Officers' advice to Members is to proceed with care in this regard.

25. The other risk to the Authority from a refusal is considered to be reputational, particularly if an application for costs against the Council is awarded, which is considered likely in this case.

26. Taking all the above factors into account, the overall risk to the Authority of a refusal is considered to be significant in this case.

CONCLUSION

27. It remains the opinion of Officers that the position of the proposed access is acceptable when considered on objective technical grounds. Any such approval would be subject to the conditions set out within the original Officer report which requires additional details to be submitted and approved prior to development commencing.

28. However should Members remain of the opinion that the proposal is unacceptable it is suggested that the following reason be used which combines the use of the access both during construction and after occupation:

The residential development proposes a vehicular access onto Brickfields Drive and subsequently Hales Barn Road. The Local Authority is not satisfied that the position of this access would provide a safe means of access and egress from the site, both during construction and once the development was occupied, given the existing level of on-street parking in the vicinity, the road widths and the amount of traffic using this stretch of highway.

On this basis, the proposal would be harmful to highway safety and contrary to policies DM2 of the Joint Development Management Document, CS3 of the Core Strategy and para. 32 of the National Planning Policy Framework which seek to produce designs and layouts which are safe and maintain or enhance the safety of the highway network.

29. It must be reiterated that this is not a reason that Officers consider would withstand the scrutiny of a planning appeal. Officers further advise that an award of costs against the Authority would be likely on the basis that it is unable to objectively defend this reason. Within this context, the following recommendation remains.

Recommendation:

30. It is **RECOMMENDED** that planning permission be **Granted** subject to the conditions and Section 106 agreement outlined within Working Paper 1.

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=O3F15WPDFR000>