



St Edmundsbury
BOROUGH COUNCIL

DEV/SE/17/019

Development Control Committee 3 May 2017

Planning Application DC/16/1395/FUL
Genesis Green Stud Farm, Genesis Green,
Wickhambrook, Newmarket, Suffolk, CB8 8UX

Date: 27/09/2016 **Expiry Date:** 22/11/2016 – Extension
Registered: of Time Agreed

Case Officer: Aaron Sands **Recommendation:** Grant

Parish: Wickhambrook **Ward:** Wickhambrook

Proposal: Planning Application – 4no. flats

Site: Genesis Green Stud, Genesis Green, Wickhambrook

Applicant: Genesis Green Stud Ltd – Mr Michael Swinburn

Agent: Harrington's Architecture And Design Ltd - Ian Harrington

Synopsis:

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

Background:

This application is referred to the Development Control Committee because it represents a departure from policy. The considerations of this proposal have been predicated on whether a number of caravans have become lawful through the passage of time, as opposed to normal requirements of evidence relating to a functional need.

CONTACT CASE OFFICER:

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Proposal:

1. Planning permission is sought for the erection of a block of 4no. flats to replace 3no. static caravans currently in situ for the purposes of housing workers employed within Genesis Green Stud. The proposed block measures 14 metres in width and 8.8 metres in depth with an eaves height of 5.7 metres and an overall ridge height of 8.3 metres.

Application Supporting Material:

2. Information submitted with the application as follows:
 - Application Form
 - Planning Statement
 - Land contamination assessment
 - Proposed Plans and Elevations
 - Specifications of existing caravans
 - Evidence of occupation and siting of caravans (*Officer note: this information contains confidential details and is not publicly available*).

Site Details:

3. The site comprises a stud farm within designated countryside and located towards the south of the main complex. The site contains a number of equine related buildings. A number of static caravans are currently located to the southern corner of the site.

Planning History:

4. E/95/1186/P – Stationing of mobile home to be used for staff accommodation for temporary period. Granted. 20/04/1995
5. SE/04/3271/P - Planning Application - Erection of two storey building comprising four 3 bedroom flats for stud employees. Granted. 04/11/2004

Consultations:

6. Environment Team: No objection subject to informatives
7. Environment Agency: No objection
8. Rights of Way: No objection
9. Public Health and Housing: No objection subject to conditions restricting occupation to those employed within the site
10. Natural England: No comments
11. Highway Authority: No objection subject to conditions

Representations:

12. Parish Council: No objection

Policy: The following policies of the Joint Development Management Policies Document and the St Edmundsbury Core Strategy December 2010 have been taken into account in the consideration of this application:

13. Joint Development Management Policies Document:

- Policy DM1 (Presumption in Favour of Sustainable Development)
- Policy DM2 (Creating Places – Development Principles and Local Distinctiveness)
- Policy DM5 (Development in the Countryside)
- Policy DM22 (Residential Design)
- Policy DM26 (Agricultural and Essential Workers Dwellings)
- Policy DM32 (Business and Domestic Equine Related Activities In the Countryside)
- Policy DM46 (Parking Standards)
- Policy DM47 (Development Relating to the Horse Racing Industry)

14. St Edmundsbury Core Strategy December 2010

- Policy CS2 (Sustainable Development)
- Policy CS3 (Design and Local Distinctiveness)

Other Planning Policy:

15. National Planning Policy Framework (2012)

16. Written Ministerial Statement Dated 17th December 2015

Officer Comment:

17. The issues to be considered in the determination of the application are:

- Principle of Development
- Design and Form

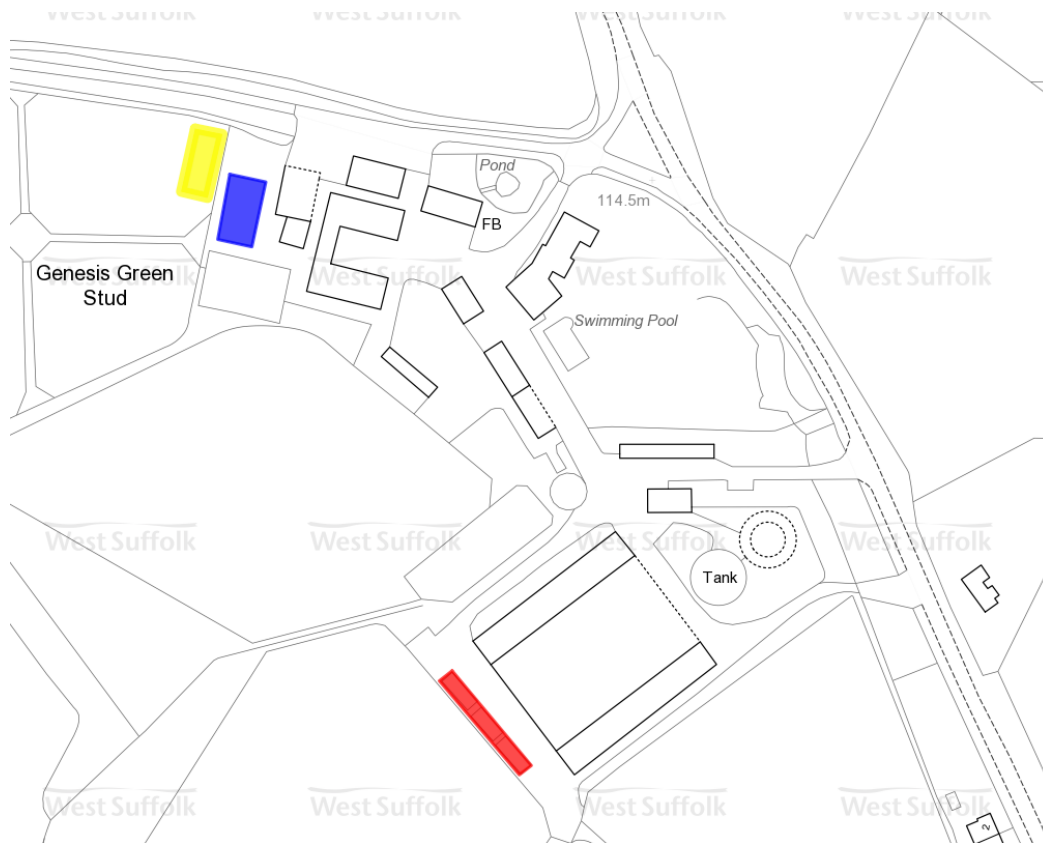
Principle of Development

18. Policy DM1 provides a presumption in favour of sustainable development subject to compliance with policies within the development plan, and where other material considerations do not indicate that permission should be refused. Sustainability is the golden thread of decision making that runs throughout the NPPF, plan-making and decision taking. Policy CS2 of the core strategy sets out a broad overview of the local planning authority's consideration of sustainable development. In accordance with East Staffordshire Borough Council V Secretary of State for Communities and Local Government and Barwood Strategic Land LLP [2016] EWHC 2973 (admin) the starting point in determining sustainable development should be that which complies with an up-to-date, fully adopted local plan. The local authority has a fully adopted, NPPF compliant local plan, and noting that the proposal is not for market housing, but for equine workers dwellings, paragraph 49 of the NPPF does not apply, though the council

can demonstrate a five year housing land supply in any event.

19. The proposal is for four equine workers dwellings within the countryside, located approximately 2km from the nearest local service centre and the more urban area of Wickhambrook, and 11.1km from Newmarket, which the site would principally be tied to as a HRI (horse racing industry) site. It is recognised that, due to the nature of such facilities, there is often a requirement that these sites are located away from more locationally sustainable areas, such as towns, in the countryside, where there is better access to land necessary to sustain such uses. While they are not isolated in terms of surrounding built development, they are isolated from services and other modes of transport than the private car.
20. Policy DM5 supports selected development in the countryside, specifically mentioning development for key workers essential to the operation of an equine-related business. This support is subject to other criteria expressed in subsequent policies, but such development is considered to be necessarily located in a rural area, contributing to a rural economy, and/or of such benefit that it outweighs the adverse consequences arising from development in an otherwise undesirable location.
21. Policy DM26 sets out those further detailed considerations to enable support for essential workers dwellings, in response to the general support expressed in policy DM5. This policy requires that satisfactory evidence is submitted to demonstrate that there is a need for such dwellings, and that there are no alternative residences available in the nearby area. Proposals must also demonstrate that the business is viable, and that such development would be of a size and nature commensurate with the business. It should not, however, be intrusive into the countryside, with suitable design to respect the character and appearance of the area. Policy DM26 caveats that permanent proposals will normally need to be prefaced with temporary accommodation for at least 3 years.
22. This application *does not* contain an assessment that outlines the functional need for the application, nor does it contain any viability information that indicates the economic viability of the site. As such, it is not compliant with policies DM5 or DM26, and the provisions of the development plan indicate therefore that permission should be refused.
23. That said, a number of material considerations have come to light during the course of the application that officers consider carry very significant weight in favour of the proposed development. In addition, where there is a clear indication that a site has been in a continued use for some time, and therefore appears to be economically stable, officers consider that this limits the weight to be attached against the scheme arising from the failure to provide financial details relating to the performance of the business. Officers consider that the history of the site speaks for itself in the facts of this case given some 25 years, at the very least, where the site has appeared to have been economically stable.
24. The planning history of the site indicates that a temporary permission was granted in 1995 for the siting of a caravan (indicated by the yellow

rectangle in the map below), subject to a condition that this should be removed on or before 18/04/1998. Later, in 2004, planning permission was then granted for 4no. 3 bedroom flats (the blue rectangle in the map below) in an alternative location within the site. This was accompanied by an assessment of need that indicated specialist staff were required on the site to appropriately run the business. The 2004 permission was not implemented, however, and it has now expired. It is of a reasonable age, and the policy position has substantially altered since this time, such that the assessments in relation to previous applications are considered to carry only very limited weight.



25.3no. residential caravans have been sited in the red rectangle within the southern area of the site. These caravans appear to have had no planning permission, but do appear that they have been in situ for a substantial length of time, such that they would appear, on the balance of probability, to have become lawful through the passage of time. The caravans would need to have been in place and occupied for at least 10 years in order to be considered lawful. An assessment of that should be taken on the balance of probability, noting that there may often be difficulty in locating complete records of that siting and occupation for a fully 10 year period. If these caravans have now become lawful then this fact is highly material to the consideration of this application.

26.It is worth noting that the 2004 application for workers' accommodation was accompanied by an assessment of functional need that indicated a requirement for additional staff accommodation on the site. While that permission was not implemented, the caravans that have been sited

appear to have been done so around the time of that application, and did therefore provide additional accommodation on the site. While the permission was not implemented, officers do still acknowledge that accommodation on the site was increased, albeit in an unlawful manner. This does speak to a continued functional need for workers on the site.

27. These caravans appear to be capable of each berthing up to 16 occupants in total, which appears to be commensurate with the number that could be accommodated within the proposed flats (which individually appear to be able to reasonably accommodate 4 people each for a total of 16). However, officers do consider that it is unlikely that all possible space would be occupied, not least because occupants are unlikely to be agreeable to sharing such space.
28. If, in fact, these caravans have become lawful through the passage of time, this proposal amounts to a replacement of accommodation, as opposed to additional accommodation on the site, particularly noting that the caravans could be replaced without further consent. As such, it would fall only to consider matters of design and the impacts on landscape, detailed in a different section of this report.
29. A large amount of information has been received, that indicates the caravans have been in situ for at least 10 years. Given the nature of this information, much of which deals with personal bank details and contracts, it has not been publicly provided. However, to summarise the contents, the information includes:
 - Financial details
 - Utilities information
 - Licences that require occupation on the site by workers
30. As stated, the information contained within these documents indicates that the caravans have been in situ for at least 10 years. However, it is not fully conclusive if they have been occupied for that period of time. The details indicate a number of workers have occupied the sites, though the time frames given are limited, indicating from 2010 and 2013 to 2016. In addition, a number of utilities documents indicate that there has been ongoing provision of servicing (such as gas and electricity) since 2006. While this does not specifically indicate that the caravans have been occupied, it does speak to a level of habitability and a use of utilities such that maintenance and repair are necessary. It should also be appreciated that the test for considering this matter is 'the balance of probabilities'. This is plainly a balanced test, and not one that requires, for example, unequivocal or absolute demonstration. Noting the test required, and respecting the balance of evidence received, Officers consider that the relevant test is met, and that, on the balance of probability, it is more likely than not that these existing caravans have been on site and occupied for a sufficient period of time to have become immune from enforcement action. This being the case, it should also be noted that the use and occupation of these caravans is not limited, controlled or otherwise restricted since there are no conditions nor any s106 agreement relating to their use.

31. The written ministerial statement released 17th December 2017 confirmed changes to national policy that stated intentional unauthorised development is a material consideration to be weighted against the grant of planning permission. Applications in the past have been undertaken on the site for caravans for workers accommodation by Genesis Green Stud Ltd. There is some merit in considering that, given the involvement of the company in the past in which they had knowledge that planning permission was required, that there is sufficient awareness of the system to know that the caravans on site at present also required planning permission. However, there is no concrete evidence that there was intent to carry out unauthorised works, only a logical conclusion based on historic knowledge within the company. As such, this is a consideration to weigh against the grant of planning permission, but it is somewhat tenuous, given that there is no express indication of the intent. Officers therefore consider that weight afforded to this consideration should be limited, and not outweigh other considerations in this determination.
32. Having reviewed the information, in conjunction with the legal department, and noting that the caravans very much appear to have been in situ for at least a 10 year period, officers consider that it is likely the caravans have been occupied for at least that time period. That said there is still an uncertainty as to occupation that stems from the lack of information on staff prior to 2010.
33. To conclude on this point therefore, the information submitted indicates, on the balance of probability that a number of residential caravans have been sited and occupied at this site for a sufficient period to have become immune from enforcement action. This being the case then, notwithstanding the lack of any demonstration of functional need for additional workers accommodation at this site, the length of time that this enterprise has been established, the historic support given to workers accommodation previously at this site, the strong indication that the existing residential caravans on site are lawful, plus the opportunity now available to remove the caravans and impose conditional control on the occupation of any future accommodation, all add significant weight in support of the proposal.

Design and Form

34. Policy DM22 states that proposals for residential properties should maintain or create a sense of place and character. Designs should be employed that are based on an analysis of existing buildings, landscape and topography, exploiting the opportunities those present. Proposals should utilise local characteristics to create buildings and spaces that contribute to a coherent and legible place and support continuity of built form and enclosure of spaces.
35. The proposed block of flats appears much as a common dwelling, proposed in facing materials reflective of agricultural buildings. The application site is largely comprised of similar buildings, including a substantial corrugated metal building to the south. Buildings appear

functional, though many of the more recently erected structures are attractive in their overall form and clearly reflective of their use for equine purposes.

36. That attractiveness is considered to extend to this building, which appears to be well proportioned, incorporating detailing around the doors and windows and a uniformity that adds finesse to what might otherwise be a monotonous, unadorned elevation. The proposal is set substantially back from the road and other public views, and due to its position, views of the proposal would be largely set against the backdrop of a sizeable agricultural building, as opposed to a landscape vista that it might otherwise interrupt views of.

The Planning Balance

37. In determining this proposal, the provisions of the development plan do weight heavily against the proposal. In light of the written ministerial statement, that weight is exacerbated by the unauthorised development, but, as stated, officers consider that weight to be limited and not a sufficient reason for refusal by itself.

38. On the other hand, the information provided through the course of the application indicates that there is a very real probability that the caravans have been in situ and occupied for a sufficient length of time that they have become immune from enforcement action. That exemption would mean this proposal amounts to a replacement of accommodation, as opposed to new accommodation, and that is a reason sufficient to set aside the provisions of policy DM26 of the Joint Development Management Policies.

39. The provision of a permanent building, as opposed to the temporary caravan buildings that would otherwise be replaced as necessary, is considered to be of some limited positive weight in favour of the proposal. It would prevent the need to constantly change the caravans as they become weathered and no longer fit for habitation. A purpose built, permanent structure, on the other hand, would enable compliancy with modern building regulations, offering a better level of accommodation for the occupants, as well as less involved maintenance. That said, the weight afforded in this regard is limited.

40. The caravans on site are not currently tied to Genesis Green Stud, and could be occupied by people who are not employed or tied to that business. The new flats would be conditioned to be occupied only by those who live and work in conjunction with the site. This carries positive weight in terms of removing what are effectively marketable sites for caravans in the countryside, and replacing them with development that is purely for use by workers within the site.

Conclusion:

41. In conclusion, officers consider that there is sufficient evidence that the caravans have been in situ and occupied for a sufficient length of time,

taken on the balance of probability. In addition, other benefits of the scheme provide some modest additional positive weight in its favour, balanced against the policy and other harm set out above.

42. On the whole, it is considered that the balance of this application, while fine, falls in favour of its approval. However, noting the policy conflict, and that there is still some uncertainty around the history of the caravans, officer consider that the approach taken here requires at least some ratification by the committee.

Recommendation:

43. It is recommended that planning permission be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following approved plans and documents:

Reason: To define the scope and extent of this permission.

Reference No:	Plan Type	Date Received
(-)	Location Plan	30.06.2016
1606-1	Existing Block Plan	30.06.2016
1606-4	Proposed Block Plan	26.07.2016
1606-2	Proposed Floor Plans	30.06.2016
1606-3	Proposed Elevations	30.06.2016
1606-5	Proposed First Floor Plan	26.07.2016

3. Before the development hereby approved is first occupied details of the areas to be provided for the loading, unloading manoeuvring and parking of vehicles including secure cycle storage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.

Reason: To ensure the provision and long term maintenance of adequate on-site space for the parking and manoeuvring of vehicles, where on-street parking and manoeuvring would be detrimental to highway safety.

4. The occupation of the dwellings hereby permitted shall be limited to a person or persons solely or mainly employed, or last employed, in the business being carried out as Genesis Green Stud Ltd, or a dependent of such person residing with him or her, or a widow or widower of such a person.

Reason: The site is in an area where new dwellings are not normally permitted.

5. The 3 no caravans indicated on plan ref 1606-1 (titled Site Location – Survey Plan) received 30th June 2016 shall be removed within 6 months of the occupation of the dwellings hereby approved, and the council will be informed in writing of their removal.

Reason: To rectify the currently untied residential plots and ensure that only necessary accommodation remains within the site.

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=summary&keyVal=O9J0NDPDHZW00>

Case Officer: Aaron Sands

Date: 12/04/2017