



Forest Heath  
District Council

# DEV/FH/17/015

## Development Control Committee 7 June 2017

### Planning Application DC/16/2652/OUT, Stock Corner Farm, Stock Corner, Beck Row

**Date:** 15.12.2016      **Expiry Date:** 25.01.2017

**Registered:**

**Case Officer:** Marianna Christian      **Recommendation:** Refuse

**Parish:** Beck Row      **Ward:** Eriswell and the Rows

**Proposal:** Outline Planning Application (Means of Access and Layout to be considered) 9 no. dwellings (following demolition of existing agricultural buildings), alterations to existing access and associated works (amended scheme to DC/15/2456/OUT).

**Site:** Stock Corner Farm, Stock Corner, Beck Row

**Applicant:** Mr T Sore

**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:**

**This application is presented to the Development Control Committee as the Parish Council supports the proposal and the recommendation is one of REFUSAL.**

**The application is referred directly to Members in the interests of consistency as the previously refused application on the site, ref. DC/15/2456/OUT, was also considered by Committee.**

## **Proposal:**

1. Outline planning permission is sought for the erection of 9 no. dwellings. The means of access to and the layout of the development are included for consideration at this time. Matters of scale, appearance and landscaping are reserved at this stage and do not therefore form part of the application.
2. It is proposed to utilise an existing vehicular entrance to serve the development. The entrance would be widened and a new access road provided which would also serve the existing bungalow at Stock Corner Farm. It is also proposed to provide a footpath along part of the western boundary of the site terminating at Louis Drive.
3. The layout plan submitted shows 9 no. detached dwellings (with Plots 8 and 9 being 'linked detached'), 6 of which would front the new access road with the remaining 3 facing onto the A1101. All of the dwellings are proposed to be open market properties. There are two large single storey barns at the southern end of the site which are proposed to be demolished.
4. This application has been submitted following a refusal of permission for 11 no. dwellings on the site, reference DC/15/2456/OUT. This earlier application was considered by Development Control Committee on 4<sup>th</sup> May 2016 and refused for the following summarised reasons:
  - 1) Principal of development:  
The site fell outside of the defined settlement boundary of Beck Row and the development was therefore contrary to policies DM5, DM26, DM27 and DM29 of the Joint Development Management Policies Document and the guiding principles of the NPPF.
  - 2) Design:  
The proposal was not considered to represent good design and failed to create a coherent and legible place. The layout of the development lacked visual interest and failed to provide a good standard of amenity for future occupiers. The development was therefore contrary to policy CS5 of the Forest Heath Core Strategy (May 2010), policies DM2 and DM22 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (February 2015) and the principles of good design within the NPPF.

3) Biodiversity:

In the absence of further surveys in respect of bats and great crested newts, the local planning authority could not be satisfied that the development would not result in harm to protected species. The development was therefore contrary to policy DM11 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (February 2015).

4) Trees:

The information provided regarding existing trees on the site was incomplete and it was unclear whether important landscape features could be retained as part of the development with the layout proposed. The development was therefore contrary to Policy DM13 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (February 2015) and Policy CS3 of the Forest Heath Core Strategy (May 2010).

5) S106 issues:

In the absence of a completed Section 106 agreement the proposal failed to secure the appropriate provision of affordable housing required by Policy CS9 of the Forest Heath Local Development Framework Core Strategy (May 2010) and the provision or improvement of infrastructure needed as a result of the development as required by Policy CS13 of the Core Strategy.

5. This application has sought to address the above reasons for refusal as far as possible.

**Application Supporting Material:**

6. Information submitted with the application as follows:

- Application Form
- Design, Access, Heritage and Supporting Planning Statement
- Biodiversity Checklist
- Extended Phase 1 Ecology Survey
- Bat Activity Survey
- Topographical Survey
- Groundsure Screening Report
- Contamination Report
- Plans

**Site Details:**

7. The site lies adjacent to but outside of the defined housing settlement boundary for Beck Row and forms part of Stock Corner Farm. At the southern end of the site are two large brick built barns and areas of hardstanding, adjacent to which is a conifer hedge which divides the site. To the north of the hedge the site is predominantly laid to grass with several timber outbuildings. Stock Corner Farm Bungalow is sited in the north east corner and is separated from the application site by a low post

and wire fence. To the south of the site are residential properties in Louis Drive and Falcon Way, to the east is agricultural land within the applicant's ownership and to the north is a residential property known as The Chestnuts. There is an extant planning permission for 5 dwellings on the site of The Chestnuts, ref. DC/14/2293/FUL. To the west of the site on the opposite side of the A1101 are paddocks which are also used for the holding of car boot sales.

### **Planning History:**

<b>Reference</b>	<b>Proposal</b>	<b>Status</b>	<b>Decision Date</b>
DC/15/2456/OUT	Outline Planning Application (Access and Layout to be considered) - 11 no. dwellings (existing buildings to be demolished); alterations to existing vehicular access.	Application Refused	05.05.2016
N/70/1357/M	Erection of agricultural dwelling.	Application Granted	11.08.1970

### **Consultations:**

#### 8. Parish Council:

- Support (without comments).

#### 9. Planning Policy:

- Council has demonstrated an up to date five year supply of housing land.
- Application site lies outside the settlement boundary and within the countryside.
- Allocated sites within the Proposed Submission Site Allocations Local Plan (2017) have all gained planning permission or a resolution to grant planning permission and all are located within the eastern part of the settlement.
- Policy DM27 permits new dwellings in the countryside where the proposal is for 1 or 2 dwellings, in a closely knit cluster, adjacent to or fronting an existing highway. The application proposal does not accord with this policy.
- Principle of development on this site would be contrary to policies CS10 and DM5;
- The Emerging Proposed Submission Site Allocations Local Plan (2017), taking into account all available evidence including a Settlement Boundary Review (2017), is not proposing to allocate the application site or extend the settlement boundary in this location.
- Proposal would put pressure on infrastructure capacities regarding education, health, sport and recreation and notably green infrastructure.

10. Ecology Tree & Landscape Officer:

*Initial comments:*

- Existing trees are marked on plan but there is no assessment of the impact of the proposal on these. Root protection areas are not shown. As layout of the site is being considered, this information is required to assess whether the trees can be retained.
- Mature horse chestnut tree on roadside edge is of high value and should be retained.
- Conifers to be removed comprise a linear feature for bats and should ideally be replaced in line with the recommendations of the bat survey.
- Retention of hedge fronting site is important to reduce the impact of the proposals. Any sections of hedge removed must be replaced.
- Mitigation and enhancement measures in ecological report must be secured by condition.
- Bat activity survey confirmed common pipistrelles, soprano pipistrelles, brown long-eared, Daubenton's and Natterer's bats were recorded roosting at the site within the Large Barn, Piggery & Tool Shed. Demolition of the Large Barn and Piggery will result in the loss of day roosts used by individual bats of five species. Conservation value of these roosts when taken individually by species is Low. When taken in combination the value of the site for bats is of Local value. Report confirmed a Natural England Licence would be required and sets out a provisional mitigation strategy.
- Report also notes moderate level of foraging and commuting activity from at least six species of bat and recommends the loss of high value foraging habitat should be avoided. Where this is not practicable replacement habitat should be provided. Landscaping scheme to show replacement planting will be required.
- Recommend an additional condition in relation to bats to ensure that demolition works do not take place until evidence of an appropriate license, or confirmation that this is not required, has been provided to the LPA.

*Further comments:*

- Amended plan showing root protection areas of trees to be retained is acceptable.
- Tree protection details will be required, possibly by condition.

11. Natural England:

- No comments.

12. Suffolk Wildlife Trust:

- Unclear whether horse chestnut on western boundary with suspected bat roosting potential will be impacted by the proposal.
- Are satisfied with the findings of the ecological survey reports. Request recommendations made are secured by condition.

13. County Highway Authority:

- Footpath link may be provided by the adjacent development DC/14/2293/FUL however as this is not guaranteed an appropriate condition should be imposed.

- Query whether sufficient parking for 4 bedroom dwellings and visitor spaces.
- Conditions recommended regarding layout, gradient and surfacing of access, bin storage, surface water drainage, manoeuvring and parking areas including secure cycle storage, visibility splays and provision of new footway.

14. Environment Team:

- Conditions recommended to secure appropriate investigation and remediation in respect of land contamination.

15. Ministry of Defence:

- Does not object to the proposed development but requests adequate mitigation measures are incorporated due to the site's location within the 66dB(A) noise contour for RAF Lakenheath.

16. Public Health and Housing:

- Site is close to Mildenhall Stadium and the RAF base. Recommend a noise assessment is carried out. Details of the assessment and proposed noise attenuation measures should be provided for agreement in writing.
- Conditions recommended regarding acoustic insulation, hours of construction, disposal of waste and external lighting.

17. County Archaeological Service:

- Conditions recommended to secure appropriate investigation.

18. Environment Agency:

- Site is located above a Principal Aquifer and within Source Protection Zone however we do not consider the proposal to be high risk.
- Refer to standing advice regarding contamination.

19. Anglian Water:

- As the proposal is for less than 10 dwellings we will not be providing comments.

20. County Flood and Water Engineer:

- We had a holding objection to the previous application that was not resolved. New application is a minor development and does not therefore require our formal comments.
- Would still however advise the LPA to ensure a drainage strategy is submitted.

21. Strategic Housing:

- Under Policy CS9 proposals for housing outside the defined settlement boundary will only be permitted to meet a proven local need to deliver affordable housing, such as an exception site. The Strategic Housing Team is therefore unable to support this application in its current form.

**Representations:**

22. None received.

**Policy:**

23. The following policies have been taken into account in the consideration of this application:

24. Forest Heath Local Development Framework Core Strategy Development Plan Documents 2001-2026 (with housing projected to 2031) (May 2010):

- Policy CS1 Spatial Strategy
- Policy CS3 Landscape Character and the Historic Environment
- Policy CS4 Reduce Emissions, Mitigate and Adapt to future Climate Change
- Policy CS5 Design Quality and Local Distinctiveness
- Policy CS7 Overall Housing Provision (sub-paragraph 1 only)
- Policy CS10 Sustainable Rural Communities

25. Forest Heath Local Plan (1995) Saved Policies:

- Inset Map 6 – Beck Row

26. Forest Heath Local Plan:

- The Single Issue Review (SIR) of Core Strategy Policy CS7 Overall Housing Provision and Distribution
- Site Allocations Local Plan Document

The above documents were submitted to the Secretary of State for examination on 24 March 2017.

27. Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (February 2015):

- Policy DM1 Presumption in Favour of Sustainable Development
- Policy DM2 Creating Places – Development Principles and Local Distinctiveness
- Policy DM5 Development in the Countryside
- Policy DM6 Flooding and Sustainable Drainage
- Policy DM11 Protected Species
- Policy DM12 Mitigation, Enhancement, Management and Monitoring of Biodiversity
- Policy DM13 Landscape Features
- Policy DM14 Protecting and Enhancing Natural Resources, Minimising Pollution and Safeguarding from Hazards
- Policy DM20 Archaeology
- Policy DM22 Residential Design
- Policy DM27 Housing in the Countryside
- Policy DM46 Parking Standards

**Other Planning Policy/Guidance:**

28. National Planning Policy Framework (2012)

29. National Planning Practice Guidance

30. ODPM Circular 06/2005 Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System (August 2005)

**Officer Comment:**

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

- Legislative context for outline applications
- Principle of development
- Design and residential amenity
- Noise
- Biodiversity
- Landscape impacts
- Access and highway safety
- Drainage
- Other matters
- Reference to nearby approved schemes

Legislative context for outline applications

32. This application is for outline planning permission. The National Planning Practice Guidance (NPPG) confirms that an application for outline planning permission allows for a decision on the general principles of how a site can be developed. Outline planning permission is granted subject to conditions requiring the subsequent approval of one or more 'reserved matters'.

33. Reserved matters are those aspects of a proposed development which an applicant can choose not to submit details of with an outline planning application, i.e. they can be 'reserved' for later determination. These are defined in Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 as:

- Access – the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.
- Appearance – the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.
- Landscaping – the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features;



- Layout – the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.
  - Scale – the height, width and length of each building proposed within the development in relation to its surroundings.
34. An application for outline permission does not need to give details of any reserved matters, albeit information is often provided at the outline stage in 'indicative' fashion to demonstrate that the site is capable of accommodating the level of development proposed.
35. In this case matters of access and layout are included for consideration as part of the application. Matters of appearance, landscaping and scale are reserved matters and are not therefore for consideration at this time.

#### Principle of development

36. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Recent High Court cases have reaffirmed that proposals that do not accord with the development plan should not be seen favourably, unless there are material considerations that outweigh the conflict with the plan. This is a crucial policy test to bear in mind in considering this matter since it is not just an absence of harm that is necessary in order to outweigh any conflict with the development plan, rather tangible material considerations and benefit must be demonstrated.
37. The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and is a material consideration in planning decisions. Paragraph 12 of the NPPF is clear however that the Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
38. Whilst Beck Row is identified as a Primary Village in Core Strategy Policy CS1, the site lies outside of the defined settlement boundary for the village and is therefore classed as countryside. Policy CS10 states that in villages and small settlements not identified for a specific level of growth in Policy CS1, residential development will only be permitted where there are suitable sites available inside the limits of a defined settlement boundary, or where the proposal is for affordable housing, a gypsy and traveller site, the replacement of an existing dwelling or the provision of a dwelling required in association with existing rural enterprises.
39. Development Management Policy DM5 states that areas designated as countryside will be protected from unsustainable development. New residential development will only be permitted in the countryside where it is for affordable housing for local needs, a dwelling for a key agricultural,

forestry or commercial equine worker, small scale development of 1 or 2 dwellings (in accordance with Policy DM27) or the replacement of an existing dwelling.

40. As the proposal in this case is for nine open-market dwellings on a site that is outside of the defined settlement boundary for Beck Row and within the countryside for planning purposes, the proposal is contrary to Policies CS10, DM5 and DM27.
41. The emerging Site Allocations Local Plan (SALP) sets out the Council's preferred development sites across the district up to 2031 and has been submitted to the Secretary of State for examination. The application site was submitted to the Council for inclusion within the SALP but was discounted on the following grounds:
  - The site is located adjacent but outside the existing development boundary.
  - The site is considered to be within an unsustainable location and at an unsuitable scale.
  - The site is partly within the MOD noise safeguarding zone.
42. The sites that are proposed to be allocated for development within Beck Row have all gained planning permission or a resolution to grant planning permission and are located within the eastern part of the settlement, closer to its main services and facilities.
43. The settlement boundaries within Forest Heath have also been reviewed as part of the Site Allocations Local Plan. The Review does not propose to amend the Beck Row settlement boundary to include the application site.
44. The latest FHDC assessment of a five year supply of housing land was published on 22 December 2016. This confirms that the Council is able to demonstrate a five year supply of housing.
45. Having regard to the above, the principle of residential development in this location is contrary to both adopted and emerging planning policy. Significant weight must be attached to this conflict with the development plan, noting the latest Court rulings on the interpretation of the NPPF.
46. The submitted Design and Access Statement acknowledges the conflict with policy in this case but states that there are combined benefits and material justifications that should outweigh this in the planning balance. These are, in summary:
  - The development of a brownfield site with a non-conforming use currently benefitting from unrestricted hours of operation and vehicular movements.
  - The 'fall-back' position offered by permitted development rights which would enable the existing agricultural buildings to be converted to provide up to 3 dwellings, together with a further 1-2 dwellings that could be supported under Policy DM27.
  - The provision of housing in a sustainable location.
  - The generation of economic activity.

- Improvement to visual amenity by developing a currently unkempt site.
47. There are currently two large brick built barns at the southern end of the site, close to dwellings in Louis Drive. Whilst there are no restrictions on the hours of use of these buildings or the number of associated vehicle movements, which is not uncommon for agricultural buildings, the Council is not aware of any adverse impacts arising from the existing situation on the site in terms of neighbour amenity. In addition, the buildings do not appear to be in use at the present time and the submitted Design and access Statement explains that they are surplus to requirements and unsuitable for modern agricultural practices. Officers therefore consider that the benefits of redeveloping this brownfield site and the removal of the existing use should be given limited weight in the planning balance.
48. It is acknowledged that the existing agricultural buildings could potentially be converted to residential units under the provisions of Schedule 2 Part 3 Class Q of the General Permitted Development Order. This would however comprise the re-use of existing buildings, which is encouraged in both national and local policy, and would provide no more than 3 residential properties. As such this is not considered to be comparable to the provision of 9 newly constructed dwellings in the countryside. The agent states that following such a conversion, a further 1-2 dwellings could be provided under Policy DM27 which supports small scale residential development within existing clusters of housing subject to specific criteria. This is however speculative as any such proposal would need to be assessed via an appropriate application. As such, officers are of the opinion that the 'fall-back' position cited in this case carries little weight in the planning balance.
49. The proposal would provide 9 open-market dwellings and would therefore contribute to housing supply in the District. The Council is however able to demonstrate a five year supply of housing and its proposed allocations for new housing, including within Beck Row, are now at an advanced stage. The sites proposed to be allocated have all gained planning permission or a resolution to grant planning permission. In addition, the site has been discounted for allocation on sustainability grounds and it is noted that the sites that are proposed to be allocated are within the eastern part of Beck Row, closer to its main services and facilities. For these reasons it is considered that the contribution to housing supply in this case should be given limited weight in the planning balance.
50. It is acknowledged that the proposal would generate some economic activity if approved. This could however be said for all development proposals and is not, in itself, sufficient reason to set aside the conflict with policy in this case. The agent also states that the existing site is unkempt and that its re-development would be beneficial in visual terms. The site is however relatively well screened from the highway by established hedgerows and is a typical agricultural site with old, though not dilapidated, buildings with some overgrown areas of land and open storage. The application under consideration is also in outline form and as such does not provide details of the appearance of the dwellings or the

landscaping of the site. It is therefore very difficult to quantify the visual benefit of redeveloping the site.

51. For the reasons outlined above, officers consider that the material considerations cited by the agent do not outweigh the clear and significant conflict with the development plan in this case.

#### Design and residential amenity

52. Whilst the scale and appearance of the proposed dwellings are reserved matters, the layout of the site is under consideration at this stage. This includes the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.

53. In terms of design and amenity, the previously refused scheme for 11 dwellings on the site was not considered to represent good design and failed to create a coherent and legible place. The layout of the development lacked visual interest and a sense of place, with prominent buildings orientated with their flank or rear elevations facing the A1101. Certain plots had a contrived relationship and a poor standard of amenity due to their limited private garden space and/or relationship with adjacent dwellings.

54. The current proposal is for fewer dwellings and seeks to address the concerns summarised above by revising the layout. Plots 1 to 3 now have their front elevations facing the main road and Plot 9, which is adjacent to the site entrance, has been designed to address both the A1101 and the new access road. The reduction from 11 to 9 dwellings has also improved the amenity spaces serving the properties and the relationships between the buildings. The proposal is considered to be acceptable in terms of its layout and residential amenity.

#### Noise

55. The site lies within the 66dB(A) noise contour for RAF Lakenheath which is approximately 4.8km northeast of the application site. The Ministry of Defence (MoD) has been consulted on the application and has raised no objection to the development provided that adequate mitigation measures are incorporated. The MoD has provided guidance within their consultation response regarding the recommended minimum acoustic insulation within the 66dB(A) contour. The Council's Public Health and Housing Officer has similarly not objected to the proposal on noise grounds but recommends that a noise impact assessment is carried out prior to the commencement of development with noise attenuation measures to be agreed in writing. This could be secured by condition were the development otherwise acceptable.

#### Biodiversity

56. The information provided with the previously refused application indicated that bats were present on the site, and utilised two of the buildings that

were proposed to be demolished to allow residential development of the site. The submitted ecology survey was also unclear as to the potential impact of the development on great crested newts. In the absence of further surveys the Council could not be satisfied that the proposals would have no adverse impact on protected species.

57. This revised application is accompanied by a Phase 1 habitat survey and subsequent bat survey. The Phase 1 survey recommends mitigation in relation to great crested newts and hedgehogs and a lighting strategy and best practise in relation to birds and reptiles, which could be secured by condition were the development otherwise acceptable. The survey also recommends enhancement measures which could be delivered via an appropriate landscaping scheme at reserved matters stage.
58. Bat activity surveys have now been undertaken at the site. This confirms that common pipistrelles, soprano pipistrelles, brown long-eared, Daubenton's and Natterer's bats have been recorded roosting at the site within the buildings namely the large barn, piggery and tool shed which are proposed to be demolished. The demolition of the large barn and piggery would result in the loss of day roosts used by individual bats of five species. The conservation value of these roosts when taken individually by species is Low. When taken in combination the value of the site for bats is of Local value. The report confirms that a Natural England Licence would be required and sets out a provisional mitigation strategy. The report also notes that there was a moderate level of foraging and commuting activity from at least six species of bat recorded during the surveys, and recommends that the loss of high value foraging habitat should be avoided. Where this is not practicable then replacement habitat should be provided. Again, this could be secured via a landscaping scheme at reserved matters stage.
59. Having regard to the above, this revised application is considered to be acceptable in terms of biodiversity impacts.

#### Landscape impacts

60. There are a number of significant trees on the site including a line of pine trees which are a landscape feature characteristic of the area, and a horse chestnut tree that is identified as providing potential habitat for bats. The information provided with the previously refused application was inadequate and it was unclear whether these important landscape features could be retained.
61. This revised application is accompanied by a topographical survey showing the locations of existing trees and hedges within the site and these are also shown on the proposed layout plan. Following the Ecology, Tree and Landscape Officer's request for further information, a revised layout plan including the root protection areas of the existing trees has been provided. This indicates that important trees on the site could be retained with the layout that has been put forward. Based on the information provided, the development would not have an unacceptable adverse impact on existing landscape features within the site.

### Access and highway safety

62. It is proposed to improve the existing vehicular access to the site to serve both the new development and Stock Corner Farm Bungalow. The submitted layout plan shows a new roadway within the site and the construction of a new footpath along part of the western boundary of the site ending at Louis Drive. No objections have been received from the County Highway Authority regarding these aspects of the proposals. The Highway Authority has queried whether adequate parking is provided for the four-bedroom dwellings indicated and for visitors. Given however that the scale of the dwellings is a reserved matter not for consideration at this stage, the sizes of the individual dwellings that have been provided are indicative and a revised mix of property types could therefore be subsequently submitted if outline permission were granted. The layout plan shows that nine dwellings could be accommodated on the site with three spaces (including garages) each. Subject to the garages being of sufficient size to accommodate a vehicle, this level of provision would accord with current County guidelines.

### Drainage

63. National Planning Practice Guidance (NPPG) states that when considering major development of 10 dwellings or more, sustainable drainage systems should be provided unless demonstrated to be inappropriate. The previously refused scheme for 11 dwellings failed to provide an acceptable surface water drainage strategy. The current application is however for 9 dwellings and does not therefore constitute a major development. As such, a drainage scheme is not required to be submitted prior to the application being determined.

### Other matters

64. A further reason for refusal of the previous application was its failure to secure the appropriate provision of affordable housing required by Policy CS9 of the Forest Heath Local Development Framework Core Strategy (May 2010) and the provision or improvement of infrastructure needed as a result of the development as required by Policy CS13 of the Core Strategy. The current application however falls below the thresholds for affordable housing and infrastructure improvements, being for less than 11 dwellings.

65. The Environment Agency has advised that the proposal is not high risk in terms of contamination and the Council's Environment Officer has recommended conditions to secure appropriate investigation and remediation. It is considered that land contamination could be dealt with by way of these conditions were the development otherwise acceptable.

66. The County Archaeological Service advises that the proposals affect an area of archaeological potential. Appropriate investigation and recording could be secured by condition were the development otherwise acceptable.

Reference to nearby approved schemes

67. The submitted Design and Access Statement makes reference to a planning permission granted for 8 dwellings at 'Medway', 1 The Grove in Beck Row ref. DC/16/0436/HYB which was determined in August 2016. That site also lies outside of the settlement boundary. The approval followed a High Court decision - Wychavon District Council v SSCLG decided on 16 March 2016 - which found that the general presumption in favour of sustainable development set out in paragraph 14 of the NPPF applies even when the development plan is not absent, silent or out-of-date. In determining the application therefore the Council weighed the benefits of the proposal against any adverse impacts, in accordance with paragraph 14.

68. Since that time however there have been two High Court judgements that disagree with the above stance. These cases are East Staffordshire Borough Council v SSCLG (decided on 22 November 2016) and Trustees of the Barker Mill Estate v Test Valley Borough Council & SSCLG (decided on 25 November 2016). These held that the presumption in favour of sustainable development expressed in the NPPF is only applicable in the circumstances set out in paragraph 14, i.e. when the development plan is absent, silent or out-of-date. The development plan is not absent, silent or out-of-date in this case. These recent High Court cases have reaffirmed that proposals that do not accord with the development plan should not be seen favourably, unless there are material considerations that outweigh the conflict with the plan.

69. Members may recall that the adjacent land to the north of the application site, 'The Chesnuts', also benefits from an extant planning permission for 5 no. dwellings (ref. DC/14/2293/FUL) and is similarly outside of the defined settlement boundary for Beck Row. This development was however approved prior to the formal adoption of the Joint Development Management Policies Document and prior to the Forest Heath District Council assessment of a five year supply of housing land. The Joint Development Management Policies are now afforded more weight in the decision-making process, being adopted policy and forming part of the development plan against which proposals must be assessed. The Council is also now able to demonstrate a five year supply of housing, which it was not at the time that the application at 'The Chestnuts' was approved.

70. Having regard to the above context, the approvals cited are not considered to alter the assessment of the current application under consideration.

## **Conclusion:**

71. The application site lies outside of the defined settlement boundary for Beck Row and is therefore within the countryside where the provision of new housing is strictly controlled. The proposals are contrary to adopted planning policies which direct new open-market housing to sites within the defined limits of existing settlements and the application does not therefore accord with the development plan.
72. Whilst the application is considered to have addressed the majority of the reasons for refusal of the previous application on the site (DC/15/2456/OUT), having a satisfactory layout and addressing previous concerns regarding the impact on trees and biodiversity, the significant conflict with planning policy identified previously remains. An absence of harm is not sufficient to outweigh any conflict with the development plan - tangible material considerations and benefits must be demonstrated.
73. Furthermore, since the refusal of application DC/15/2456/OUT the Council has submitted The Single Issue Review (SIR) of Core Strategy Policy CS7 Overall Housing Provision and Distribution and Site Allocations Local Plan Document to the Secretary of State for examination. The application site is not proposed to be allocated for development and it is not proposed to amend the Beck Row settlement boundary to include the application site. The sites proposed to be allocated have all gained planning permission or a resolution to grant planning permission and are within the eastern part of Beck Row, closer to its main services and facilities. The Council is also able to demonstrate a five year supply of housing.
74. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 12 of the NPPF, the development plan is the starting point for decision making and proposals that conflict with the development plan should be refused unless other material considerations indicate otherwise. As set out earlier in this report, officers are of the opinion that there are no material considerations that indicate that policy should be set aside in this case.

## **Recommendation:**

75. It is recommended that Outline Planning Permission is **REFUSED** for the following reason:
  - 1) The site falls outside of the defined settlement boundary of Beck Row and is therefore within the countryside where the provision of new housing is strictly controlled. The exceptions are set out under policies DM5, DM26, DM27 and DM29 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (February 2015), these being affordable housing, dwellings for rural workers, small scale infill development of 1 or 2 dwellings, and the replacement of an existing dwelling. The proposal does not represent any of these exceptions and as such is contrary to policies DM5, DM26, DM27 and DM29 of the Joint Development Management Policies



Document, CS10 of the Forest Heath Core Strategy 2010 and the guiding principles of the National Planning Policy Framework (NPPF).

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. Paragraph 12 of the NPPF is clear however that the Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. There are no material considerations in this case that warrant an approval of the proposed development which is contrary to policy.

**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=OHEYVDPDL7000>