



Forest Heath
District Council

DEV/FH/18/015

Development Control Committee 5 September 2018

**Planning Application DC/18/1126/OUT –
Land North of Belle Vue, Newmarket Road, Barton Mills**

Date 5/7/2018 **Expiry Date:** 7/9/2017

Registered:

Case Charlotte **Recommendation:** Refuse
Officer: Waugh

Parish: Barton Mills **Ward:** Manor

Proposal: Outline Planning Application (all matters reserved) - 5no. dwellings

Site: Land North of Belle Vue, Newmarket Road, Barton Mills

Applicant: Mr Jonathan Waters – Victoria Stanley Ltd

Agent: Mr Craig Farrow – TAB Architecture

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 Development Control Committee consider the attached application and associated matters.

CONTACT CASE OFFICER:

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Background:

This application is referred to the Development Control Committee as the applicant is related to the Leader of the Council.

The application is recommended for REFUSAL.

Proposal:

1. Outline planning permission is sought for the erection of 5 no. dwellings. Matters of access, scale, layout, appearance and landscaping are reserved at this stage and do not therefore form part of the application. As such, this application considers the principle of residential development only.

Site Details:

2. The application site is located to the south side of Barton Mills, on the eastern side of Church Lane. It lies outside of the defined settlement boundary for Barton Mills which is designated as a Secondary Village in the Core Strategy Policy CS1.
3. The site occupies a rectangular parcel of land which measures approximately 0.85 hectares in size. It comprises a large open field which is currently used as paddock. There is an existing access to the site from its Western side onto Church Lane. Boundaries of the site comprise established hedging and trees with the Eastern side open to an access drive, a recently converted barn and 4 other dwellings.
4. The Environment Agency flood risk maps indicate that the site is situated within Flood Zone 1 ('little or no risk of flooding').

Planning History: None

Consultations:

5. Barton Mills Parish Council: Object to the application on the grounds that it's outside the development area.
6. SCC: Highway Authority: Query whether sufficient visibility is achievable from the existing access and has requested a footway to connect to that existing within the village.
7. Environment Team: The application is accompanied by a Phase 1 Desk study and preliminary risk assessment which identifies potential risks and recommends intrusive investigations. As such, should planning permission be granted a condition is required to ensure further investigation takes place.
8. Public Health: No objections subject to the imposition of conditions regarding hours of construction, lighting and acoustic insulation.

9. County Archaeologist: The site lies in an area of archaeological potential and as such, should permission be granted a condition is required to ensure a scheme of investigation takes place.

Representations:

- 10.No representations received.

Policy:

- 11.The following policies of the Joint Development Management Policies Document and the Forest Heath Core Strategy 2010 have been taken into account in the consideration of this application:

- 12.Joint Development Management Policies Document (2015):

- **DM1** - Presumption in Favour of Sustainable Development
- **DM2** - Creating Places – Development Principles and Local Distinctiveness
- **DM5** - Development in the Countryside
- **DM6** - Flooding and Sustainable Drainage
- **DM7** - Sustainable Design and Construction
- **DM11** - Protected Species
- **DM13** - Landscape Features
- **DM20** – Archaeology
- **DM22** – Residential Design
- **DM46** – Parking Standards

- 13.Forest Heath Core Strategy (2010)

- CS1** - Spatial Strategy
- **CS2** - Natural Environment
- **CS3** - Landscape Character and the Historic Environment
- **CS4** - Reduce Emissions, Mitigate and Adapt to Future Climate Change.
- **CS5** - Design Quality and Local Distinctiveness
- **CS7** - Overall Housing Provision (sub-paragraph 1 only)
- **CS9** - Affordable Housing Provision
- **CS10** - Sustainable Rural Communities
- **CS13** - Infrastructure and Developer Contributions

Other Planning Policy:

14. National Planning Policy Framework (2018)

Officer Comment:

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

- Principle of Development
- Amenity
- Access and Highway Safety
- Ecology and Landscape
- Planning obligations
- Other Issues

Legislative context for outline applications

16. 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'.
17. 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
 - Appearance
 - Landscaping
 - Layout
 - Scale

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. In this case, an indicative site layout has been provided. All matters however, are reserved.

Principle of Development

18. The NPPF was revised in July 2018 and is a material consideration in decision making from the day of its publication. Paragraph 213 is clear however that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the revised NPPF. Due weight should be given to them according to their degree of consistency with the Framework; the closer the policies in the plan to the policies in the Framework, the greater weight that may be given. The key development plan policies in this case are policies DM5 and DM46 and it is necessary to understand how the NPPF deals with the issues otherwise raised in these policies, and to understand how aligned the DM Policies and the NPPF are. Where there is general alignment then full weight can be given to the relevant DM Policy. Where there is less or even no alignment then this would diminish the weight that might otherwise be able to be attached to the relevant DM Policy. DM5 concerns development in the countryside and whilst the NPPF is supportive of a prosperous rural economy it still seeks to avoid isolated homes in the countryside unless exceptional circumstances apply. As such, DM5 can be given full weight.
19. Paragraph 105 of the NPPF allows local parking standards to be set, taking into account, inter alia, the accessibility of the development; the type, mix and use of development; the availability of and opportunities for public transport; and levels of local car ownership. The local parking standards adopted in West Suffolk reflect bespoke consideration by the Highway

Authority of these matters, and officers remain of the opinion that the provisions of DM46 remain material, are otherwise aligned with the provisions of the NPPF, and that full weight can therefore be given to DM46 in consideration of this matter. As a consequence it is also considered that full weight can be given the provisions of criterion L of Policy DM2, noting the provisions of Para. 108 of the NPPF that seeks to ensure that safe and suitable access to sites can be achieved.

20. At the heart of the NPPF remains a presumption in favour of sustainable development. However, paragraph 12 of the NPPF is clear that the Framework does not change the statutory status of the development plan as the starting point for decision making, providing it is considered up to date, which in this case, the policies are considered to be. 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.
21. The site is located outside the settlement envelope for Barton Mills, on land considered to be countryside for planning purposes. Policy DM5 of the Joint Development Management Policy Document states such areas will be protected from unsustainable development. It goes on to state that 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.
22. Barton Mills is classified as a secondary village under policy CS1 - spatial strategy. These villages will provide nominal housing and employment growth during the plan period where local capacity allows. The policy states that no urban expansion will be considered for these villages and development outside the settlement boundary will be restricted to particular types of development that support the rural economy, meet affordable housing needs, or provide renewable energy which are not proposed within this application.
23. The proposed development is clearly in conflict with the provisions of the development plan in relation to market housing in the countryside. The site is remote from the village centre, albeit the settlement itself contains very limited facilities. It is accessed via a winding road which is unlit and doesn't benefit from a footpath making it an undesirable route for pedestrians who are more likely to rely on the motor car to access facilities.
24. Therefore, the proposal represents unsustainable development and should be rejected unless there are other material considerations weighing in favour of the development that would indicate that a different recommendation is appropriate. In this case, no material considerations

have been put forward and therefore, significant weight must be attached to this conflict with the development plan.

Amenity

25. The site is only directly bound by neighbouring dwellings to the east with a newly converted barn and four dwellings fronting Church Lane. These dwellings are separated from the application site by an access road and although proposed plans have not been formally submitted with this application, given the position and orientation of existing dwellings it is unlikely that they will be adversely affected by the proposed development.
26. A reserved matters application would contain details of the layout, scale and appearance proposed and at this point detailed consideration would be given to the impact of the proposed development on existing dwellings and their occupants.

Access and Highway Safety

27. Whilst access is a matter reserved in this application it must be assumed that the existing access would be utilised to serve the development and this is referred to in the Design and Access Statement. The Highways Authority has queried whether sufficient visibility is achievable from this access point given that it joins a derestricted road where the national speed limit applies. In this location visibility splays of 215 metres are required and given the level of vegetation on the front boundary it is not clear if this is attainable or if land ownership allows it. Any removal of the front boundary trees and hedging must also be given careful consideration as the site is positioned in a rural area and degradation of this boundary is likely to have a detrimental impact on the verdant nature and landscape character of the site. Furthermore, the site is remote from the existing settlement with a gap of 150 metres to the nearest footpath, creating a dark and undesirable walk to the village centre. This issue of access and connectivity weighs heavily against the proposal and further highlights the unsustainable nature of the development.
28. Access has been listed as a reserved matter so on this basis, whilst the access is not considered acceptable it has not been used as a reason for refusal.

Ecology and Landscape

29. Spatial Objective ENV1 of the Core Strategy aims to conserve and enhance the habitats and landscapes of international, national and local importance and improve the rich biodiversity of the District. This objective forms the basis of Core Strategy Policy CS2 which sets out in greater detail how this objective will be implemented. Joint Development Management Policy DM12 requires all developments to take account of biodiversity and either mitigate for, improve and/or monitor as appropriate.
30. A Preliminary Ecological Appraisal accompanies the planning application. This maps the existing habitats on site and notes the value of trees and

scrub for both birds and bats. The appraisal concludes that no further surveys are required in respect of any species and subject to retention of the trees and the inclusion of enhancements, the development raises no issues with regard to ecology.

31. As stated within the ecological assessment, boundary hedges that surround the site are considered to be covered by the Hedgerow Regulations (1997) and it meets the required criteria by length. As such, these should be retained.
32. A Tree Survey and Arboricultural Development Report was submitted as part of the application documentation. This identifies a number of trees on the front boundary as well as 5 on the northern boundary and 1 on the southern which are category B and considered significant. These provide an important natural screen for the development and contribute towards the character of the site and its surroundings. The retention of these trees as part of the development is highly desirable for both amenity and biodiversity reasons. Given the location of the trees and the size of the site to accommodate development there are no arboricultural constraints that would preclude the development proposed. Further details would likely be required to inform the acceptability of the layout.
33. Surrounding landscape is predominantly arable with parcels of grazing pastures and small isolated woodlands. The site is within 2 km of 4 designated sites; Barton Mills LNR, Breckland Forest SSSI, Breckland SPA, Cherry Hill and The Gallops - Barton Mills SSSI and Cavenham – Icklingham Heaths SSSI. Given the modest site area, its contained nature and proximity to residential dwellings and the A11, it is considered unlikely for this application to have any impact on the SPA.
34. On the basis of the above evaluation, officers are of the opinion that the development proposals would not have an unacceptable impact on the nature conservation value of the application site or its landscape character. Subject to the implementation in full of enhancement measures and tree protection (which can be secured through relevant planning conditions), the proposed development is considered to satisfactorily address ecological and arboricultural issues and accords with Joint Development Management Policies DM11 and DM13.

Planning obligations

35. Planning obligations secured must be in accordance with the Community Infrastructure Levy Regulations 2010, which came into force on 06 April 2010. In particular, Regulation 122 states that a planning obligation may only constitute a reason for approval if it is:
 - (a) Necessary to make the development acceptable in planning terms;
 - (b) Directly related to the development; and
 - (c) Fairly and reasonably related in scale and kind to the development.
36. These are the three principal tests set out in Paragraph 56 of the Framework and are of relevance in guiding the negotiation of planning obligations

sought prior to the coming into force of the CIL Regulations. In assessing potential S106 contributions, officers have also been mindful of Core Strategy Policy CS13 and the Suffolk County Council guidance in respect of Section 106 matters, 'A Developers Guide to Infrastructure Contributions in Suffolk'.

37. The application proposes 5 dwellings on a site over 0.5 hectares which in accordance with the new NPPF triggers the requirement for affordable housing. Policy CS9 of the Core Strategy sets this affordable housing target at 30% and this policy is fully engaged. A S106 planning obligation to secure this provision has not been provided and as such, the application conflicts with policy CS9 and the NPPF.

Other Issues

38. The Environment Officer has reviewed the submitted desk study and the requirements for intrusive investigations. They are satisfied that the intrusive investigations can be controlled by attaching suitably worded conditions to any planning permission granted.
39. The application site lies within Flood Zone 1 on the Environment Agency Flood Risk maps, representing an area at low risk of flooding and suitable for all forms of development.

Conclusion

40. The application site lies outside of the defined settlement boundary for Barton Mills 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.
41. The application is in outline form and therefore, has the potential to possess a satisfactory layout which has an acceptable impact on biodiversity, trees and amenity. However, 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.
42. 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:

43. It is recommended that planning permission be **REFUSED** for the following reasons:

- 1) The site falls outside of the defined settlement boundary of Barton Mills and is therefore within the countryside where the provision of new housing is strictly controlled. Whilst exceptions to this policy exist under DM5 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (February 2015), these do not apply in this case given the scale of development and its use as open market housing. The application site is remote from the settlement of Barton Mills and accessed via an unlit road with no footpath, forcing future occupants to rely on the motor car to access local facilities. As such, it represents unsustainable development and fails to comply with policy DM5 and the provisions of the National Planning Policy Framework (NPPF).
- 2) The NPPF in conjunction with Policy CS9 of the Forest Heath Core Strategy seeks the provision of 30% affordable housing on the site given that its area exceeds 0.5 hectares. In this case, no provision has been provided and the application is therefore contrary to policy CS9 and the requirements of the NPPF.

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=PA5LW2PDGT600>