



St Edmundsbury
BOROUGH COUNCIL

DEV/SE/19/013

Development Control Committee 7 February 2019

Planning Application DC/18/1017/FUL - Hill View Works, Simms Lane, Hundon

Date Registered:	11.06.2018	Expiry Date:	06.08.2018 – EOT 08.02.2019
Case Officer:	Kerri Cooper	Recommendation:	Refuse Application
Parish:	Hundon	Ward:	Hundon
Proposal:	Planning Application - 5no. dwellings with 5no. garages and new vehicular access (following demolition of existing industrial buildings)		
Site:	Hill View Works, Simms Lane, Hundon		
Applicant:	Mr K Ager		

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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1.0 Background:

1.1 This application was considered by the Development Control Committee in October 2018, having been before the Development Control Committee at the request of the Local Ward Member, Councillor Mary Evans.

1.2 The application was deferred at the October Committee meeting due to Members requesting that a marketing assessment was carried out in accordance with Policy DM30 and DM33 as a result of the loss of the employment site.

1.3 This report should be read in conjunction with the October Committee Report, which is attached as Working Paper 1.

2.0 Proposal:

2.1 Planning Permission is sought for the construction of 5no. dwellings and associated garaging, following the demolition of existing industrial buildings.

3.0 Application Supporting Material:

3.1 The following documents have been received since October Committee:
- Birchall Steel Report
- Covering letter/statement in association with Birchall Steel Report

3.2 The full planning application, plans and documents submitted by the Applicant can be viewed online using the following link:
<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P9A9P2PDGJ100>

4.0 Site Details:

4.1 The site details are set out in paragraph 3.1 in Working Paper 1.

5.0 Planning History:

5.1 The planning history is set out in paragraph 4.1 in Working Paper 1.

6.0 Consultations:

6.1 All consultation responses are set out in section 5 in Working Paper 1.

6.2 No further consultations were required to be carried out.

6.3 All consultations can be viewed online in full.

7.0 Representations:

7.1 All representations are set out in section 6 in Working Paper 1.

7.2 Due to the nature of the additional information submitted, neighbours, Town Council and Ward Member were not formally re-consulted.

7.3 No further representations have been received since October Committee.

7.4 All representations can be viewed online in full.

8.0 Policy:

8.1 The relevant policies are set out in section 7 and 8 in Working Paper 1.

9.0 Officer Comment:

The key issues to be considered in the determination of this application also remain unchanged, these are:

- Principle of Development
- Impact on Character & Visual Amenity
- Impact on Neighbouring Amenity
- Impact on Highway Safety
- Other Matters
- Material Considerations and Planning Balance

9.1 The majority of the assessment in the October Committee Report, set out in section 9 of the attached Working Paper 1, remains relevant at this time and unchanged. However, in light of the submitted Birchall Steel Report, the weight which should be attributed to the loss of the employment site is required to be addressed and therefore the principle of the development will be re-assessed.

Principle of Development

9.1 The proposal comprises the construction of 5no. dwellings and associated garaging, following demolition of existing industrial buildings associated with the current business operating on the site. The applicant confirmed in their submission that they are willing to offer one of the proposed dwellings as an affordable unit if there is a need and demand or alternatively provide an off-site commuted sum.

9.2 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.

9.3 Policy CS13 relates to the rural areas within the Borough and states that development outside the settlements defined in Policy CS4 will be strictly controlled, with a priority on protecting and enhancing the character, appearance, historic qualities and biodiversity of the countryside. Policy DM5 states that areas designated as countryside will be protected from unsustainable development and sets out the circumstances where new or extended buildings will be permitted. In terms of housing policy DM5 supports the principle of affordable housing, dwellings for key agricultural, forestry or equine workers, small scale development in accordance with policy DM27, and the replacement of existing dwellings on a one-for-one basis. Policy DM27 permits up to two dwellings on small undeveloped plots within otherwise built up frontages in existing clusters of housing. These

policies are considered to be consistent with paragraphs 77 to 79 of the revised NPPF in respect of rural housing. Paragraph 78 states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive. Paragraph 79 sets out the circumstances where housing in the countryside can be supported, and these include housing for rural workers and the re-use of redundant buildings. Paragraph 77 supports rural exception sites to provide affordable housing to meet local needs. As such policies CS13, DM5 and DM27 can be afforded significant weight.

- 9.4 Policy CS2 seeks to ensure that a high quality, sustainable environment is achieved and requires, inter alia, the conservation and enhancement of the character and quality of local landscapes and the wider countryside in a way that recognises and protects the fragility of these resources. Policy CS3 states that proposals for new development must create and contribute to a high quality, safe and sustainable environment. Proposals will be expected to address, inter alia, consideration of protection of the landscape and natural environment and an understanding of the local context and an indication of how the proposal will enhance the area. Policy DM2 states that proposals for all development should (as appropriate) recognise and address the key features, characteristics, landscape/townscape character, local distinctiveness and special qualities of the area.
- 9.5 These policies are considered to be consistent with paragraphs 127 and 170 of the NPPF. Paragraph 127 states that decisions should ensure the developments are sympathetic to local character including the landscape setting, and paragraph 170 states that planning policies and decisions should contribute to and enhance the natural and local environment by, inter alia, recognising the intrinsic character and beauty of the countryside. As such policies CS2, CS3 and DM2 can be afforded significant weight.
- 9.6 Policy DM30 seeks to protect employment sites and to ensure that there would be no adverse impact on employment generation if a site is to be considered for a non-employment use. Paragraph 84 of the NPPF states:
- 9.7 *Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.*
- 9.8 As a result of the revised changes to the NPPF, further emphasis and weight should now be given to employment in rural areas subject to impact. Therefore, policy DM30 can be afforded significant weight.
- 9.9 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 but does not change

the statutory status of the development plan as the starting point for decision making. Paragraph 12 of the NPPF states that where development conflicts with an up-to-date development plan permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan only if material considerations in a particular case indicate that the plan should not be followed.

- 9.10 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.
- 9.11 St. Edmundsbury Borough Council published an assessment of a five year housing land supply in September 2017. The report sets out the availability of housing land supply for the period 2017-2022. The assessment confirms that the Council is able to demonstrate a five year supply of housing.
- 9.12 Hundon which is a Local Service Centre as defined under Policy CS4 of the Core Strategy with a reasonable range of services and facilities including a primary school, community shop, two pubs and a community centre. The application site however lies some considerable distance outside of the housing settlement boundary, within land designated as countryside, and in an area otherwise remote from easy access to day to day services.
- 9.13 The application site is situated approximately 4 km from the village of Hundon itself, within Brockley Green. The nearest village, Kedington is situated approximately 2 km from the application site. The location of the site, its distance from the services and facilities in either village, the lack of pedestrian footpaths, and the lack of existing infrastructure results in the proposed development being considered very clearly to be locationally unsustainable, with limited or even no obvious opportunities to encourage pedestrian and cycle access to and from the site.
- 9.14 It is acknowledged and respected that one of the units proposed could be suitable in terms of size to provide an affordable housing unit. However due to the site being situated in the countryside, sites for affordable housing schemes would only come forward in exceptional circumstances and while the proposal does otherwise require affordable housing based on site area with reference to the provisions of Policy CS5, more importantly the provisions of Para. 63 of the NPPF as the most up to date national policy seeks to preclude affordable housing on schemes of this size. A
- 9.16 Therefore, the offer to provide affordable housing should be given limited weight in the balance of considerations.
- 9.17 The application site measures 0.38 hectares in total. To the north of the application site is Hill View and to the east, south and west is agricultural land. The proposed development does not comprise infilling of a small undeveloped plot nor does it comprise a single dwelling or pair of semi-detached dwellings. As such, the proposed development fails to comply with policy DM5, DM27, DM29 and paragraph 79 of the NPPF.

- 9.18 Policy DM30 states that any non-employment use proposed on sites and premises used and/or designated on the policies maps for employment purposes, and that is expected to have an adverse effect on employment generation, will only be permitted where the local planning authority is satisfied that the proposal can demonstrate that it complies with other policies in this and other adopted local plans (particularly policies DM1 and DM2 in the Joint Development Management Policies Document), and one or more of the following criteria has been met (as appropriate to the site/premises and location): a. there is a sufficient supply of alternative and suitable employment land available to meet local employment job growth requirements; b. evidence can be provided that genuine attempts have been made to sell/let the site in its current use, and that no suitable and viable alternative employment uses can be found or are likely to be found in the foreseeable future; c. the existing use has created over-riding environmental problems (e.g. noise, odours or traffic) and permitting an alternative use would be a substantial environmental benefit that would outweigh the loss of an employment site; d. an alternative use or mix of uses would assist in urban regeneration and offer greater benefits to the community in meeting local business and employment needs; e. it is for an employment related support facility such as employment training/education, workplace crèche or industrial estate café; f. an alternative use or mix of uses would provide other sustainability benefits that would outweigh the loss of an employment site.
- 9.19 The site is currently occupied by Vulchem Hygiene Supplies Ltd. The engineering business has occupied the site for a considerable number of years and has continued to expand. The applicant has stated that if planning permission is to be granted, the business is proposed to be relocated elsewhere. Information has been submitted which details potential alternative premises in Haverhill, Newmarket or Bury St Edmunds but these are considered vague. Limited or even no weight can be attached to this however in the balance of consideration since the policy seeks to protect this site employment site from loss without adequate assessment having first been given to its retention.
- 9.20 Since October Committee, a report has been provided by Birchall Steel which provides the likely commercial demand for the existing land at buildings at Hill View Works, together with an assessment as to the viability of a commercial redevelopment of the site.
- 9.21 The report which has been undertaken is NOT a marketing assessment and is instead simply a report which looks at the location, quality and repairs required for the site to be considered for a commercial use. It is concluded that redevelopment of the site for B1 (business) use is unviable but this is a conclusion that has not been reached with the site first having been offered to the market as is otherwise required by DM30. The report/assessment does not have regard to or consideration for any other employment use and does not provide adequate marketing evidence under the requirements of the relevant policy.
- 9.22 There remains a clear and real conflict therefore with the provisions of DM30 and it is considered that plainly insufficient evidence has been submitted to explore all of the remaining criteria under policy DM30 for the Local Planning Authority to be satisfied that there will be no impact from the loss of the employment use.

- 9.23 Para. 79 of the NPPF seeks to avoid the provision of isolated homes in the countryside. Based on the locationally unsustainable conclusions set out above this site can be considered as nothing other than isolated. Virtually no ready opportunity exists for access to day to day goods and services by any other means than the private car and this factor weighs very, very heavily against the proposal. Para. 78 of the NPPF makes it very clear how important sustainable development is within rural areas, supporting the provisions of DM5, and stating that *'to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.'* While it is recognised that plainly any rural housing will help some nearby local settlements in increasing their sustainability this benefit is modest, and is clearly outweighed in the opinion of officers by the day to day locational unsustainability issues and by the adverse effects upon rural employment generation, noting the conflict with DM30 and the manifest lack of any robust assessment.
- 9.24 Section 11 of the NPPF sets out the support that must be given to development which make the most effective use of land. Support for the reuse of brownfield land should be given substantial weight where that site is within a settlement but this paragraph does not apply in this instance noting that the site is outside of any settlement boundary and any weight is also further reduced here by reason of the manifest locational unsustainability of this proposal.
- 9.25 Paragraph 121 of the NPPF states that:
- 'Local planning authorities should also take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework'*
- 9.26 For the reasons already set out above, this development is quite plainly not considered compatible with the provisions of other policies, for example Para. 79, and limited weight can therefore be attached to this paragraph in support of the proposal.
- 9.27 Having regard to all of the above, the principle of development in this location is contrary to adopted and national planning policy. Significant weight must be attached to this very clear conflict.

Material Considerations and Planning Balance

- 9.28 The submitted Planning Statement acknowledges the site is outside of the Housing Settlement Boundary but states that there are combined benefits and material justifications that should outweigh this in the planning balance. These are, in summary:
- Brownfield site;
 - Applicant can relocate business;

- Proposal would result in a reduction in traffic;
- Providing affordable housing;
- Visual improvement to site

- 9.29 The site is a brownfield site and this weighs in favour in the overall planning balance, albeit noting the conclusions drawn above, and noting the wider conflict with paragraph 79 of the NPPF this weight is limited. Furthermore, it is an active employment site at present and whilst information has been provided in respect of potential relocation options, these are not definitive, and in any event, relocation of the existing business would not safeguard this site for employment purposes, which is the aim of DM30.
- 9.30 The proposed scheme proposes one affordable unit, which is an aspect that the Strategic Housing team support, however it is not considered a sustainable location given that Brockley Green forms its own hamlet, which is a significant distance away from the services and facilities in Hundon itself and noting that national policy does not require affordable housing on a scheme of this size limited weight can be attached to this offer. There is also no mechanism before us for securing the provision of such in any event.
- 9.31 There would be temporary economic benefits arising from the construction activity required to deliver the development plus some intrinsic, albeit modest, benefit from the provision of dwellings generally. These benefits are however considered to be modest and easily repeatable in relation to any number of sites elsewhere in the Borough.
- 9.32 Officers' consider that the material considerations cited do not outweigh the clear and significant conflict with the development plan in this case.

10.0 Conclusion:

- 10.1 The application site lies outside of a defined settlement boundary and is therefore within the countryside where the provision of new housing is strictly controlled. The proposal is 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. Furthermore, insufficient evidence has been submitted in respect of policy DM30 for the Local Planning Authority to be satisfied that there will be no impact from the loss of the employment use.
- 10.2 In addition, the proposal would create an encroachment to the countryside, distinctively separate from the Housing Settlement Boundary. The provision of 5no. dwellings would intrude into this open countryside setting, to the detriment of the character and appearance of the area. It would have an unwelcome urbanising effect through the beginning of a ribbon development.
- 10.3 In conclusion, for the reasons outline above, it is considered that the proposed development is contrary to Policies RV1, RV3, CS1, CS4, CS13, DM1, DM2, DM5, DM27, DM29 and DM30 and there are no material planning considerations that outweigh this very significant conflict with the development plan.

11.0 Recommendation:

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

1. Policies CS1 and CS4 between them establish the spatial strategy and the settlement hierarchy for development within St. Edmundsbury. Both seek to resist, residential development outside of settlement boundaries. Furthermore, Policy DM5 (Development within the Countryside) states that areas designated as countryside will be protected from unsustainable development and Policy DM27 sets out the circumstances where dwellings will be permitted outside of settlement boundaries, with Policy DM29 setting out the circumstances where a rural exception site will be permitted. The site is considered to be locationally unsustainable and isolated in direct conflict with the provisions of paragraph 79 of the NPPF. Furthermore, the proposal does not meet the provisions of any of these Development Plan policies and there are no material considerations that outweigh this very significant conflict with the Development Plan.
2. Policy DM30 seeks to protect employment sites and to ensure that there would be no adverse impact on employment generation if a site is to be considered for a non-employment use. Insufficient evidence has been submitted in respect of policy DM30 for the Local Planning Authority to be satisfied that there will be no impact from the loss of the employment use.
3. Policy DM2 states that proposals should recognise and address key features, characteristics and landscape of the area. The provision of 5no. dwellings would intrude into this open countryside setting to the detriment of the character and appearance of the area. The proposal would create a visual intrusiveness in this attractive rural location and create a significant impact as to cause harm to the surrounding landscape character proving contrary to the provisions of Policy DM2 and to those of the NPPF relating to good design.

12.0 Documents:

- 12.1 All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/18/1017/FUL](https://www.stedmundsbury.gov.uk/DC/18/1017/FUL)