

Development Control Committee 5 February 2020

Planning Application DC/19/1918/FUL – Land at Chardale, Dale Road, Stanton

Date Registered: 07.10.2019 **Expiry Date:** 02.12.2019

Case Officer: Mr Nicholas Yager **Recommendation:** Refuse Application

Parish: Stanton **Ward:** Stanton

Proposal: Planning Application - 1no dwelling and cart lodge

Site: Land at Chardale, Dale Road, Stanton

Applicant: Mr Graham Bettany

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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Section A – Background

The application was considered at the West Suffolk Development Control Committee meeting on 8 January 2020. Members at the meeting resolved that they were 'minded to' approve planning permission contrary to the officer recommendation of refusal. At this point, the risk assessment protocol was invoked requiring the further reporting of this matter before a decision is made.

The reason why Members resolved that they were minded to approve the application was that they considered it to be a sustainable development, highlighted that a 'cluster of dwellings' was subjective and remarked upon the marginal increase the scheme would contribute to the District's housing supply and economy. Members also disagreed with the Officer recommendation that it was not a sustainable location and added that it would add to housing supply and contribute to the economy.

A committee sit visit was undertaken on 6 January 2020.

Members were minded to approve the application as they considered the proposal would not have an adverse impact upon the character of the countryside and would not contravene policy DM27.

The purpose of this report is to provide a more detailed analysis of DM27 and its interpretation, as well as a risk assessment for Members in accordance with the Decision Making Protocol, which sets out the potential risks that might arise should planning permission be approved.

The previous officer report for 8th January 2020 meeting of the Development Control Committee is included as Working Paper 1 to this report. Members are directed to this paper for details of the site and development, summaries of consultation responses and neighbour representations, and for the officer assessment of the proposal.

Members will note that some errors in the January DCC report were highlighted at that meeting. For clarity therefore, Officers advise that reference at Para. 30 to there being no footpath to the site is incorrect, a footpath does exist. Officers are satisfied that this fact does not change the materiality of the conclusions reached in that report.

Proposal

1. Please refer to working paper 1 for a description of the proposal.

Application Supporting Material:

2. Please refer to working paper 1 for a description of the supporting material.

Site Details:

3. Please refer to working paper 1 for site details.

Planning History

4. Please refer to working paper 1 for planning history.

Consultations:

5. Please refer to working paper 1 for a summary of consultation responses.

Representations:

6. Please refer to working paper 1 for representations received.

Policy:

7. On 1 April 2019 Forest Heath District Council and St Edmundsbury Borough Council were replaced by a single Authority, West Suffolk Council. The development plans for the previous local planning authorities were carried forward to the new Council by Regulation. The Development Plans remain in place for the new West Suffolk Council and, with the exception of the Joint Development Management Policies document (which had been adopted by both Councils), set out policies for defined geographical areas within the new authority. It is therefore necessary to determine this application with reference to policies set out in the plans produced by the now dissolved St Edmundsbury Borough Council.
8. Please refer to working paper 1 for a list of policies and guidance that have been taken into account in the consideration of the application.

Other Planning Policy:

9. National Planning Policy Framework (2019)
10. The NPPF was revised in February 2019 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 policies set out within the Joint Development Management Policies have been assessed in detail and are considered sufficiently aligned with the provision of the 2019 NPPF that full weight can be attached to them in the decision making process.

Officer Comment

11. Please refer to working paper 1 for the officer assessment of the proposals.

Section B – Update

12. No further update since last planning committee meeting on the 08.01.2020.

Section B – Refusal Reasons

13.The Officer recommendation remains one of refusal, with the reasons set out below;

14.Refusal reason (paras 20 – 23)

The National Planning Policy Framework (NPPF) states that planning should recognise the intrinsic character and beauty of the countryside and actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus development in sustainable locations (para. 17). Core Strategy Policy CS4 states that development outside of the settlements will be strictly controlled, with a priority on protecting and enhancing the character, appearance, historic qualities and biodiversity of the countryside while promoting sustainable diversification of the rural economy. Policy DM5 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document states that areas designated as countryside will be protected from unsustainable development, and restricts new residential development in such locations to affordable housing for local needs, dwellings for key agricultural, forestry and commercial equine workers, small scale residential developments of small undeveloped plots in accordance with Policy DM27 and the replacement of existing dwellings. Policy DM27 sets out the circumstances where small scale residential developments in the countryside will be permitted.

The application site is within the countryside for planning purposes, being outside of the defined settlement boundary for Stanton. The site lies adjacent to but separated from a group of housing and forms part of a larger area of open space with agricultural land beyond, as part of the transition from the village to the countryside beyond. The site is not therefore within a cluster of dwellings and the proposal would not constitute the infilling of a small undeveloped plot within an otherwise continuous built up frontage, as required under Policy DM27. The proposal furthermore does not meet any other special circumstances for residential development in the countryside set out within the NPPF and Policy DM5. Therefore, the proposal is contrary to the Development Plan.

Furthermore, the development would erode and urbanise the existing countryside setting in this location to the detriment of the character and appearance of the area and the setting of the nearby settlement of Stanton. In addition, the site's location away from the services in the village of Stanton would require future occupiers of the proposed dwellings to mostly travel beyond the village to access shopping, education, employment, recreation, and social facilities. The majority of these journeys would foreseeably be by private car. The proposal for a new dwelling in this countryside location therefore represents an unsustainable form of development.

15.For the above reason the proposal is considered contrary to Policies CS2, CS3 and CS13 of the St Edmundsbury Core Strategy (December 2010), Policy RV1 of the Rural Vision 2031 (September 2014), policies DM1, DM2, DM5 and DM27 of the Forest Heath and St Edmundsbury Local Plan Joint Development

Management Policies Document (February 2015) and the National Planning Policy Framework.

16. However, if notwithstanding the above, the Committee remains of the opinion that this application should be approved, then Officers would recommend 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:

Reference No:	Plan Type	Date Received
(-)	Location Plan	20.09.2019
2142/SK2	Proposed Elevations & Floor Plans	20.09.2019
2142/SK3	PLAN	20.09.2019
2142/LO(-)02A	Proposed Block Plan	07.10.2019

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

3. Occupation shall not commence until the area(s) within the site shown on Drawing No. 2142/LO(-)02A for the purposes of [LOADING, UNLOADING,] manoeuvring and parking of vehicles has been provided and thereafter that area(s) shall be retained and used for no other purposes.

Reason: To ensure that sufficient space for the on site parking of vehicles is provided and maintained in order to ensure the provision of adequate on-site space for the parking and manoeuvring of vehicles where on-street parking and manoeuvring would be detrimental to highway safety to users of the highway.

4. The areas to be provided for storage of Refuse/Recycling bins as shown on Drawing No. 2142/LO(-)02A shall be provided in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.

Reason: To ensure that refuse recycling bins are not stored on the highway causing obstruction and dangers for other users.

5. Before the access is first used visibility splays shall be provided as shown on Drawing No. 2142/LO(-)02A with an X dimension of 2.4 metres and a Y dimension of 42 metres in each direction and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no

obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.

Reason: To ensure vehicles exiting the access have sufficient visibility to enter the public highway safely and vehicles on the public highway have sufficient warning of a vehicle emerging.

6. No construction site machinery or plant shall be operated, noisy works shall be carried out and no construction related deliveries taken at or despatched from the site except between the hours of 0800- 1800 Monday to Friday, 0800-1300 Saturday and not at any time on Sundays or Bank or Public Holidays.

Reason: To protect the amenity of the area.

7. Prior to first occupation, the dwelling hereby permitted shall be provided with an operational electric vehicle charge point at a reasonably and practicably accessible location, with an electric supply to the charge point capable of providing a 7kW charge.

Reason: To promote and facilitate the uptake of electric vehicles on the site in order to minimise emissions and ensure no deterioration to the local air quality, in accordance with Policy DM14 of the Joint Development Management Policies Document, paragraphs 105 and 110 of the National Planning Policy Framework and the Suffolk Parking Standards.

8. The dwelling(s) hereby approved shall not be occupied until the optional requirement for water consumption (110 litres use per person per day) in part G of the Building Regulations has been complied with and evidence of compliance has been obtained.

Reason: To ensure that the proposal meets with the requirements of sustainability, in accordance with policy DM7 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 14 of the National Planning Policy Framework and all relevant Core Strategy Policies.

9. Prior to commencement of development a scheme for the protection during construction of the TPO/156(1991) Walnut tree on site, in accordance with BS 5837:2012 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall show the extent of root protection areas and details of ground protection measures and fencing to be erected around the trees, including the type and position of these. The protective measures contained with the scheme shall be implemented prior to commencement of any development, site works or clearance in accordance with the approved details, and shall be maintained and retained until the development is completed. Within the root protection areas the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant, machinery or surplus soil shall be placed or stored thereon. If any trenches for services are required within the fenced areas they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

Reason: To ensure that the TPO/156/1991 Walnut is protected tree on site is adequately protected, to safeguard the character and appearance of the area in accordance with policy DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies. This condition requires matters to be agreed prior to commencement of development to ensure that existing trees are adequately protected prior to any ground disturbance.

Section D – Risk Assessment:

17. Members are again reminded that, notwithstanding these conditions, and for the reasons set out above, Officers remain very firmly of the view that this proposal should not be supported. However, if the Committee remains of the opinion that this application should be approved then they must be aware of any potential risks that may arise.
18. The proposal is considered contrary to local and national policies which look to protect the countryside from unsustainable development as well as protecting the countryside from visual intrusion and harm. The reasons set out above have examined the developments compliance with Policy DM27 and illustrate it does not comply with the policy.
19. Officers consider the development proposed in this case to be contrary to policies DM1, DM2, DM5, DM27, CS2, CS3, CS13 and RV1. Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require decisions to be made in accordance with the development plan unless there are material considerations that indicate otherwise. It is not considered that in this case there are any material planning considerations which would outweigh the conflict with policy and a risk is that the Authority would make a decision that could be challengeable if adequate reasons are not provided to depart from the statutory presumption of the primacy of the development plan. The further obvious risk here therefore is that approval will undermine well established policies of restraint, particularly in relation to the spatial distribution of housing with reference specifically to policy DM27, all of which have been very successfully defended through multiple appeals on many occasions.
20. In this regard Members are advised and reminded that concern, uncertainty or disagreement over the suitability or correctness of settlement boundaries is not a matter that can be arbitrarily dealt with through the ad hoc determination of planning applications. The judgement on the sustainability of any settlement, and hence any decision to include such within a settlement boundary where development is encouraged, is one that is best taken in a holistic approach through a comprehensive review of planning policies, rather than on a case by case basis through the Development Control Committee. The determination of this and similar applications in this way risks undermining that formal policy process and more importantly it also risks an inconsistent outcome and without adequate reasons to otherwise approve this application the best way to deal with decisions such as this is through the impending Local Plan review.

21. A further risk to the Authority from an approval is reputational as it may show a lack of regard for the interpretation of countryside protection policies. In coming to their decision Members must clearly identify whether they consider the proposal complies with the development plan and their reasons for reaching their decision. If it is decided that the proposal does not comply with the policies of the development plan and they wish to approve the application, the material considerations which justify the departure must be identified. Failure to adequately identify the reasons for a decision would adversely impact on the reputation of the Council.
22. Whilst every application must be considered on its own merit, it is also important for the Council to be consistent in its application of policy when determining applications of a similar nature. Failure to provide clear reasons for the decision could expose the Council to the risk and cost of Judicial Review in the High Court and would impact on the ability for the Council to be consistent for other applications of a similar nature. This would also adversely impact upon the reputation of the Council.
23. Officers consider that if the Local Planning Authority were to accept the development being put forward by allowing the new dwelling, then it would, however incrementally, become increasingly challenging to continue to defend the Council's position in similar circumstances, particularly in relation to Policy DM27, potentially resulting in further unsustainable development in the countryside and undermining the principles behind Policies DM5 and DM27.
24. If applications are not treated consistently, in the event that a similar application is refused the applicant could have the right to seek to recover their appeal costs (in full or part depending on the circumstances) from the Council should the Inspector conclude that the Council has acted unreasonably. This would result in financial and reputational implications for the Council.

Section E – Conclusion

25. For the reasons outlined above and also set out within the original report to Development Control Committee, Officers consider that the development would provide unjustified housing in an unsustainable location, which would be significantly harmful to the character of the settlement and have an urbanising impact upon the countryside. The proposal fails to comply with policies which aim to protect the countryside and steer development to sustainable locations, there are no material considerations which outweigh that conflict.
26. In coming to their decision, Members must clearly identify how they consider the proposal complies with the development plan and their reasons for reaching their decision in circumstances such as this where the proposal does not otherwise comply with the Development Plan.

Recommendation

27. It is recommended that planning permission be **REFUSED** for the following reason:

The National Planning Policy Framework (NPPF) states that planning should recognise the intrinsic character and beauty of the countryside and actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus development in sustainable locations (para. 17). Core Strategy Policy CS4 states that development outside of the settlements will be strictly controlled, with a priority on protecting and enhancing the character, appearance, historic qualities and biodiversity of the countryside while promoting sustainable diversification of the rural economy. Policy DM5 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document states that areas designated as countryside will be protected from unsustainable development, and restricts new residential development in such locations to affordable housing for local needs, dwellings for key agricultural, forestry and commercial equine workers, small scale residential developments of small undeveloped plots in accordance with Policy DM27 and the replacement of existing dwellings. Policy DM27 sets out the circumstances where small scale residential developments in the countryside will be permitted.

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For the above reasons the proposals are considered contrary to Policies CS2, CS3 and CS13 of the St Edmundsbury Core Strategy (December 2010), Policy RV1 of the Rural Vision 2031 (September 2014), policies DM1, DM2, DM5 and DM27 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (February 2015) and the National Planning Policy Framework.

Documents:

- All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online DC/19/1918/FUL
- Working paper 1 – Committee report – 08.01.2020