

## **Development Control Committee**

### **3 June 2020**

#### **Planning Application DC/19/1519/OUT – Land Adjacent to Fishwick Corner, Thurston Road, Rougham**

**Date Registered:** 23.07.2019                      **Expiry Date:** 05.06.2020 (EOT)

**Case Officer:** Julie Barrow                      **Recommendation:** Approve application

**Parish:** Rushbrooke                      with **Ward:** Rougham  
Rougham

**Proposal:** Outline Planning Application (means of access to be considered) - (i) proposed improvement to Fishwick Corner in West Suffolk Council and (ii) 210no. dwellings means of access, open space and associated infrastructure, including junction improvements with all proposed development located within Mid Suffolk District Council

**Site:** Land Adjacent to Fishwick Corner, Thurston Road, Rougham

**Applicant:** Bloor Homes and Sir George A. Agnew

**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 13 May 2020. Members at the meeting resolved that they were 'minded to' refuse planning permission contrary to the officer recommendation of approval. 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 refuse the application was that they considered the proposals to be detrimental to highway safety, in particular in relation to cyclists. Members considered that the proposal was contrary to policies DM2, DM5 and DM13.

A committee site visit was undertaken on 2 December 2019.

The purpose of this report is to consider further the points raised by members in connection with highway safety and consider these in relation to policies DM2, DM5 and DM13. In addition, the report addresses the risk assessment required in accordance with the Decision Making Protocol, which sets out the potential risks that might arise should planning permission be refused.

The previous officer report for the 13 May 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 for the officer assessment of the proposal.

### **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)

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:**

10. Please refer to Working Paper 1 for the officer assessment of the proposals.

**Section B – Update:**

11. Following the Committee meeting the applicants' Transport Consultants have reviewed the issues raised at the meeting by Members and have provided additional information to supplement the application. A copy of the Technical Note submitted following the meeting is attached as Working Paper 2.
12. In summary the Technical Note addresses the following points:
13.
  - a. Concerns that the staggered junction will result in vehicles leaving Thurston to travel towards the A14/BSE/Cambridge having to turn left and then wait in the middle of Mount Road to turn right.

The transport data indicates that any current delays at the junction are likely to be significantly reduced and that opposing traffic flows are low. The Technical Note states that the current perception is that it is the volume of traffic stopping people leaving the junction when in fact it is

the constrained visibility and the crossroads configuration that creates the current delays.

When the staggered crossroads is assessed with its enhanced visibility and reduced interaction, it shows that the opposing level of traffic can be satisfactorily accommodated without unduly delaying vehicles making a turning movement.

The impact of not creating a staggered junction will lead to delay, experienced particularly in the morning peak. This is modelled as being an approximate 6 minute wait in traffic queues without the works and a half a minute wait with the works completed.

The Technical Note highlights the fact that the Highway Authority identified that the majority of accidents that have taken place at this junction are as a result of poor visibility. Visibility is improved by the proposal and is provided to the required standard.

N.B. The Highway Authority has advised that an order was raised on 30 March 2020 to carry out the signing works in respect of the 40mph speed limit, which is now in force at the junction. *A Recent site inspection has confirmed that the 40mph signage is now in place.*

- b. Concerns that the junction improvements are only required because of the proposed residential development, SCC Highways having already offered an apparently acceptable s106 funded highway realignment proposal to mitigate the impact of the previous five significant developments already approved in Thurston.

The Technical Note states that the previous improvement was acceptable for the scale of development proposed but it was acknowledged as being limited by available highway land. As such, any further development would necessarily need to consider future mitigation.

N.B. As stated at paragraph 36 of Working Paper 1, the Highway Authority has advised officers that had land been available at the time the consented schemes in Thurston were considered, the improvements to Fishwick Corner now being proposed would have been delivered.

- c. The majority of transport improvements proposed at the main junctions are likely to compromise the safety of cyclists

The Technical Note states that the proposal offers safety improvements for all road users, including cyclists. This is through a combination of improved inter-visibility between road users including cyclists at the junction.

The number of cyclists using the Fishwick Corner Junction recorded in the 2019 base surveys is very low. 11 cyclists were recorded between 07:00-10:00 and 11 were recorded between 15:00-19:00.

N.B. The Highway Authority has stated that, based on the applicant's survey data, there is approximately one cyclist per hour using the junction.

14. Officers advised Members at the meeting that the section of stopped up carriageway would remain available for use by cyclists and pedestrians. The applicant has submitted an updated drawing, attached as Working Paper 3, which demonstrates that cyclists will continue to be able to travel through the stopped-up roadway in safety. The drawing shows a dedicated cycle facility on the junction with splitter islands to segregate northbound and south bound movements. Further detail in respect of the stopped-up section of carriageway will be secured by planning condition.
15. The Highway Authority has advised that the existing visibility splays on the southern part of the junction are as existing and unaltered by this proposal.
16. The proposal has been subject to a Stage 1 Road Safety Audit and subject to appropriate details being included at the detailed design stage the proposal has passed this key stage.
17. The submitted drawings detail a 3m wide corridor alongside the new length of carriageway that could form a future cycleway/footway, improving connections towards Bury St Edmunds. In response to concerns raised by the Committee that the current proposal is not delivering a comprehensive cycle connection, the applicants have offered to gift further land within their control to dedicate as highway for use as a cycle and pedestrian path. This would be routed from the north of the junction along the west side of the road to the rail over bridge. In the event that this offer is accepted then it would be accompanied by a developer contribution of £75,000 towards the delivery of the future combined footway and cycle path secured via a s106 planning obligation.

N.B. At the time of writing a response is awaited from the Highway Authority as to whether this offer is accepted.

### **Section C – Policy assessment:**

18. Members have stated that they are minded to refuse permission due to the lack of cycling provision and conflicts with policies DM2, DM5 and DM13.
19. Policy DM2 relates to the creation of places and sets out the criteria that proposals for development should meet, including the production of designs that maintain or enhance the safety of the highway network.
20. Paragraph 109 of the NPPF states that “development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.
21. The Highway Authority, in its capacity as statutory consultee and expert advisor to the Local Planning Authority, has reviewed the proposal highlighting the fact that the primary cause for congestion at the junction is limited visibility. Being a crossroads with four-way movements also reduces capacity and adds to delays. The junction is an accident cluster site with 13 recorded injury accidents; 11 of which were drivers failing to look properly on the minor arms of the crossroads due to poor forward visibility.
22. The Highway Authority has advised that the introduction of a staggered junction will reduce delays, which will in turn improve capacity. In addition

the staggered junction provides the required visibility for the speed of the road and staggered junctions of this nature have been shown to reduce accidents by some 60% compared to a crossroads.

23. Officers therefore remain of the view that the applicant has demonstrated that the proposal enhances the safety of the highway network as required by Policy DM2. The proposal does not result in an unacceptable impact on highway safety and the Highway Authority has advised that the package of highway improvements proposed within the cross boundary application is such that should the residential element of the scheme proceed, the residual cumulative impacts on the road network would not be severe. The proposal therefore meets the requirements of Paragraph 109 of the NPPF.
24. Policy DM5 relates to development in the countryside and states that areas designated as countryside will be protected from unsustainable development. Paragraphs 28-38 of Working Paper 1 assess the proposal against Policy DM5 and highlight an aspiration within the Rural Vision 2031 (one of the suite of documents that makes up the Development Plan) that the safety of all road users is improved. In order to achieve this aspiration West Suffolk Council will encourage the County Council, as Highway Authority, to implement safety measures on rural roads.
25. As stated above the Highway Authority has given clear advice that the proposal to create a staggered junction at Fishwick Corner will result in a safer junction than the existing crossroads. Officers therefore remain of the view that the proposal is in accordance with the Rural Vision 2031 and whilst it does not strictly meet the exceptions for development in the countryside as set out in Policy DM5, the improvements to highway safety outweigh any policy conflict.
26. Policy DM13 seeks to ensure that development will not have an adverse impact on the character of the landscape, landscape features, wildlife or amenity value. Paragraphs 53-60 of Working Paper 1 assess the proposal against Policy DM13. Officers acknowledge that the proposal will result in a change in the landscape at a local level, however, the applicant has shown its commitment to deliver a comprehensive soft landscaping scheme alongside the new section of carriageway and it is considered that this adequately mitigates the impacts of the development.
27. Thurston Neighbourhood Plan Objective M1 is "To ensure the road and rail infrastructure serving Thurston is safe and meets the needs of the growing population". The Neighbourhood Plan states that in 2017 the County Council had confirmed that "Fishwick Corner cannot be improved further in terms of either road safety or capacity due to the highway boundary constraints". The Plan goes on to state that "These significant substantial limitations within the highway network must be addressed in order to ensure that any future development is sustainable on highway grounds". As demonstrated in Working Paper 1 and Section B above, the proposal meets these Neighbourhood Plan objectives.

#### **Section D – Risk Assessment:**

28. Members are reminded again that Officers remain very firmly of the view that this proposal should be supported. However, if the Committee remains

of the opinion that this application should be refused then they must be aware of any potential risks that may arise.

29. The proposal is considered to comply with local and national policies and is supported by the Local Highway Authority, a statutory consultee and expert in matters of highway safety. The NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The advice received from the Highway Authority is that the proposal will result in an improvement to highway safety and capacity and therefore meets the test set out in the NPPF.
30. Members will be aware that applicants have the right to appeal a refusal of planning permission and robust reasons for refusal must be given, directly related to planning policy, providing evidence of harm and following consideration of the material planning issues.
31. In March 2020 the applicants submitted a stand-alone application for the same proposal to create a staggered junction at Fishwick Corner. The application has been registered under reference DC/20/0566/FUL. This separates the proposal from the residential development proposed in the District of Mid Suffolk. The determination of this stand-alone application has been on hold pending the Committee's decision on the cross-boundary application, with its determination period having expired prior to the Committee considering this risk assessment. The Highway Authority has reiterated its support to the proposal under the stand-alone application and while the cross-boundary application is pending officers are unable to determine the application. This is due to the fact that a decision is awaited from the Committee as to whether it wishes to approve or refuse the proposal. A copy of the consultation response from the Highway Authority in respect of DC/20/0566/FUL is attached as Working Paper 4.
32. The applicants have informed the Local Planning Authority that they intend to immediately appeal the stand-alone application, on the grounds of non-determination, on the basis that the proposals have been subject to a safety audit, they are safe, accord with national and local planning policy and meet key objectives of the Thurston Neighbourhood Plan. As detailed within Working Paper 1 and this Risk Assessment Officers concur with this policy assessment.
33. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decisions to be made in accordance with the development plan unless there are material considerations that indicate otherwise. It is considered that there are no material considerations that would indicate that the application should not be approved.
34. Should either application be subject to an appeal against a refusal of planning permission and the Inspector concludes that the Local Planning Authority had acted unreasonably in refusing a proposal that complies with the Development Plan, the applicants would have the right to seek to recover their appeal costs (in full or in part depending on the circumstances) from the Local Planning Authority. The applicants have already advised that they intend to apply for a full award of costs in respect of the stand-alone application. This may result in financial implications for the Council.

35.If the application is refused Fishwick Corner will remain as a crossroads, albeit with a change in priority as secured through the existing s106 agreements for the consented development in Thurston. Visibility at the junction will remain as existing and it is predicted that delays will occur for all users.

### **Section E – Conclusions:**

36.For the reasons outlined above and set out within Working Paper 1, Officers consider that the development should be approved. The proposal complies with the Development Plan and there are no material planning considerations that indicate that a decision should be taken otherwise than in accordance with the Development Plan. In the absence of any objection from the Highway Authority as Statutory Consultee refusal of the application cannot be justified.

37.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 Members must have clear reasons and evidence to support such a decision.

38.Members should have regard to the attached Working Paper 1 in reaching their decision.

39.In the event that Members remain minded to refuse the application the following reason is suggested:

Policy DM2 of the Joint Development Management Policies Document 2015 requires development proposals to include designs that maintain or enhance the safety of the highway. It is considered that the proposal will be detrimental to the safety of cyclists using the junction and will discourage the use of this sustainable form of transport. The proposal will also result in a change to the landscape character of the local area through the construction of the carriageway together with its associated paraphernalia. The proposal is therefore also contrary to Policy DM13 of the Joint Development Management Policies Document 2015 in that it fails to protect and enhance the landscape character of the local area.

40.The recommendation of Officers remains that planning permission be **APPROVED** subject to the completion of a S106 agreement between the applicants and Mid Suffolk District Council in respect of the planning obligations considered necessary by Mid Suffolk Council.

Planning conditions are recommended in respect of the planning matters listed below in so far as they relate to the works within West Suffolk. The final detail of the conditions required in respect of the whole development to be agreed with Mid Suffolk Council, with authority delegated to the Assistant Director for Planning and Regulatory in consultation with the Chair of the Development Control Committee to agree the conditions.

Suggested planning conditions in respect of the development within West Suffolk:

- Approved plans
- Time limit
- Reserved matters for the construction of access in the WS administrative area
- Surface water drainage details
- Detailed design of road realignment (including section of carriageway to be stopped up)
- HGV construction management plan
- Provision of fire hydrants
- Archaeological investigation and evaluation
- Landscaping scheme
- Ecological mitigation and enhancement measures
- Arboricultural method statement
- Tree Protection details
- Scheme for the reinstatement of the stopped up highway
- All conditions imposed by MSDC for the parts of the development situated in its administrative area

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/19/1519/OUT](#)

- Working Paper 1 – Copy of the Committee Report and appendices presented on 13 May 2020.
- Working Paper 2 – Highway Technical Note submitted by the applicants on 20 May 2020.
- Working Paper 3 – Drawing No. X60\_PL\_201C submitted by the applicants on 20 May 2020.
- Working Paper 4 – SCC Highways consultation response dated 22 May 2020