

Development Control Committee 6 December 2023

Planning Application DC/23/1456/FUL – Hatchfield Farm, Fordham Road, Newmarket

Date registered:	5 September 2023	Expiry date:	8 December 2023
Case officer:	Charlotte Waugh	Recommendation:	Approve application
Parish:	Newmarket Town Council	Ward:	Newmarket North
Proposal:	Planning application - change of use from agricultural land to public open space and associated works		
Site:	Hatchfield Farm, Fordham Road, Newmarket		
Applicant:	Sansovino Developments Limited		

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:

The application was considered by the Delegation Panel on 7 November 2023 following an objection from Newmarket Town Council.

The Panel recommended referral of the application to the Development Control Committee for further consideration.

Proposal:

1. The application seeks the change of use of three parcels (K1, K2, K3) of arable land to recreational open space. The parcels would be fenced and accommodate woodland planting with mown pathways which link to a circular walking route to the North-East.
2. The application has been submitted following consideration by the Local Planning Authority in conjunction with Natural England of the open green spaces within the adjacent residential development site, known as Hatchfield Farm, which were required to be submitted via condition. Since determination of the outline planning application for development at Hatchfield Farm (DC/13/0408/OUT) further information in regard to Devils Dyke Special Area of Conservation and Site of Special Scientific Interest has been compiled, prompting a need to consider recreational impact on the protected site from residential schemes. The current application and mitigation as set out below is the result of discussions between these parties.

Application supporting material:

3. The application is supported by the following plans and documents:
 - Location plan
 - Block plan
 - Habitats Regulations Assessment
 - Planting strategy
 - Planting schedule

Site details:

4. Parcels K1, K2 and K3 comprise agricultural land which abuts the North-Eastern boundary of the Hatchfield Farm development site, granted outline planning permission in 2020. An established woodland tree belt comprises this boundary.
5. The application site is located on the north-east edge of Newmarket, on the eastern side of the A142/Fordham Road close to the A14. It lies adjacent to agricultural land to the north and east. To the East is Stanley House Stud (Hatchfield Farm) with Hatchfield Farm Cottages further south.
6. The site contains no listed buildings or ancient monuments and is outside Newmarket Conservation Area. It contains no Sites of Special Scientific Interest (SSSI's), Special Protection Areas (SPA's), Special Areas of Conservation (SAC's) or County Wildlife Sites (CWS's). The land sits outside of the Housing Settlement Boundary and is therefore, classed as countryside for planning policy considerations.

Planning history:

7. 2010 – Outline planning permission (F/2009/0713/ESO) refused for the comprehensive mixed use development of approximately 67 hectares of land at Hatchfield Farm, comprising inter alia up to 1200 residential dwellings; B1 employment use (up to 36000 square metres); community facilities and a primary school reservation. Following that refusal, in 2012 – An appeal against the refusal of outline planning permission for the above development was dismissed. The decision was taken by the Secretary of State following receipt of a report and recommendation from a Planning Inspector. A public Inquiry was held in advance of the decision.
8. 2019 - Policy SA6(g) of the Forest Heath Sites Allocation Local Plan identified the area at Hatchfield Farm for a mixed neighbourhood development of some 400 dwellings, 5ha of employment land, a new primary school, areas of open space and enhancement and promotion of cycling and walking routes. It also required the securing of improvements to the A14/A142 junction and horse crossings.
9. A masterplan for the site was adopted by Cabinet in 2019.
10. 2020 – Outline planning permission (DC/13/0408/OUT) was granted for up to 400 dwellings plus associated open space (including areas of habitat enhancement), foul and surface water infrastructure, two accesses onto the A142, internal footpaths, cycle routes and estate roads.
11. The planning application was 'called in' by the Secretary of State for his own determination. The planning committee of the then 'Forest Heath District Council' resolved that it would have granted outline planning permission for the proposals had it retained its decision making powers for the application. As a consequence, the Council supported the position of the applicant at the Public Inquiry and recommended to the Secretary of State (via the appointed Planning Inspector) that outline planning permission should be granted.
12. The Secretary of State initially resolved to refuse outline planning permission for the proposals, despite receiving a positive recommendation from his appointed Planning Inspector. A decision letter was duly issued. However, this was successfully challenged in the planning courts by the applicant and the first decision of the Secretary of State was quashed on the grounds it was not a legally sound decision. The planning application was returned to the Secretary of State for further consideration and a fresh decision.
13. A second Public Inquiry with a new Planning Inspector was arranged to examine any changes in circumstances that had occurred since the first Inquiry and to examine the issues that had led to the first decision being quashed by the Courts. This was held in 2019. Following receipt of a positive report from his appointed Planning Inspector, the Secretary of State resolved to grant outline planning permission. The decision letter of the Secretary of State was issued in March 2020.

- 14.2022 – Reserved matters application (DC/22/0420/RM) granted by West Suffolk Development Control Committee for two vehicle site accesses (Phase 1) and internal spine road (Phase 2)
15. Various Non-material amendments have been granted agreeing slight variations to condition wording. In addition, conditions of the outline permission have been discharged in relation to archaeology, construction method statement, phasing, ecological management, tree protection, lighting, green spaces, A14 slip road design, Rayes Lane horse crossing design.

Consultations:

Natural England

- a) European Sites – Devil’s Dyke Special Area of Conservation (SAC)
16. Habitats Regulation Assessment - Advice under the Conservation of Habitats & Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended)
17. Natural England notes that an appropriate assessment of the proposal has been undertaken in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended) (Habitats Regulations Assessment – Stage 2 Appropriate Assessment Hatchfield Farm, Newmarket. Ref: 80-616-R7-4, September 2023; E3P). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment (HRA) process.
18. The appropriate assessment concludes that the proposal will not have likely significant effects on the integrity of Devil’s Dyke Special Area of Conservation (SAC). Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given. The mitigation proposed (as detailed in the HRA report) includes:
 - An off-site footpath (distance 1.3km) (Appendix 2 of HRA report)
 - Multiple on-site public open space, which includes a Neighbourhood Equipped Area for Play (NEAP) and a Multi-Use Games Arena (MUGA) (Appendix 1 of HRA report)
 - 3 parcels of public open space adjacent to the proposed development (K1, K2 and K3 identified in Appendix 1 of HRA report)
 - Provision of homeowner information packs detailing the importance of Devil’s Dyke SAC and SSSI and where Suitable alternative Natural Green Spaces (SANGS) can be found
 - Financial contribution to local public right of ways and ‘Yellow Brick Road’ (a footpath and cycleway close to the development).
19. Natural England advise that the footpath and adjacent public open space should be implemented and available to use before first occupation of the development.

20. Natural England notes that the HRA has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

b) Sites of Special Scientific Interest (SSSIs) - Devil's Dyke SSSI

21. Providing appropriate mitigation is secured to avoid impacts upon the European sites occurring, there should be no additional impacts upon the SSSI interest features.

WS Ecology and Landscape Officer

22. Comments on planting and mown footway positions. Confirmation that a HRA is not required in this case for the reasons as set out below.

Representations:

Newmarket Town Council

23. The Committee objected to the application for expansion due to it being outside the boundary of the original planning application and loss of farmland. The Committee positively support the provision of Community open spaces for residents; however, this should have been incorporated within the original plan and allowing this would risk setting a dangerous precedent.

24. No third party representations have been received.

Policy:

25. 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 Forest Heath District Council.

26. 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 as well as the Newmarket Neighbourhood Plan:

Policy DM1 Presumption in Favour of Sustainable Development

Policy DM2 Creating Places Development Principles and Local Distinctiveness

Policy DM5 Development in the Countryside

Policy DM10 Impact of Development on Sites of Biodiversity and Geodiversity Importance

Policy DM11 Protected Species

Policy DM12 Mitigation, Enhancement, Management and Monitoring of Biodiversity

Policy DM13 Landscape Features

Policy DM42 Open Space, Sport and Recreation Facilities

Core Strategy Policy CS2 - Natural Environment

Core Strategy Policy CS3 Landscape Character and the Historic Environment

Site Allocations Local Plan 2019 (former Forest Heath area) SA6 - Housing and mixed use allocations in Newmarket

NKT12 - Local Green Spaces

NKT13 – New Green Spaces

Other planning policy:

National Planning Policy Framework (NPPF)

27. The NPPF was revised in September 2023 and is a material consideration in decision making from the day of its publication. Paragraph 219 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 2023 NPPF that full weight can be attached to them in the decision making process.

Officer comment:

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

- Principle of Development
- Impact on Landscape
- Habitats Regulations Assessment

Principle of Development

29. The principle of residential development at Hatchfield Farm has been established by DC/13/0408/OUT and can not be revisited through these proposals. The application seeks change of use of three parcels of land to recreational open space to serve this development due to its proximity to Devils Dyke.

30. Devils Dyke Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) is located approximately 4.1 km (as the crow flies) south-west of the Hatchfield Farm site. The species rich chalk grassland and scrub at Devils Dyke provides a unique habitat for a number of fauna, in particular lizard orchids which makes it internationally protected.
31. Consultation with the MAGIC website (accessed August 2023) identified that the Hatchfield Farm site falls within the Impact Risk Zone of Devils Dyke SAC and SSSI and states that new housing developments will require an assessment of recreational pressure on relevant SSSIs and measures to mitigate adverse impacts e.g. alternative open space provision to discourage residents from travelling to Devils Dyke for recreation.
32. Areas of Public Open Space will be created within the residential site to provide local residents with land for recreational use in close proximity to their homes. This includes a neighbourhood equipped area for play (NEAP) and a multi-use games arena (MUGA). These areas have been secured through the outline application and will be available prior to occupation. This application seeks to provide additional open space outside the application boundary for recreation and dog walking.
33. The parcels proposed will be linked to footpaths within the development allowing connectivity to various areas of open space and footpaths existing on Fordham Road. In addition to these parcels a new public footpath is proposed to the north-east of the site (surrounding Siberia Field). The proposed circular footpath will be approximately 1.3 km long and connect directly to the proposed residential development. Planning permission is not required for the public right of way and as such, whilst it connects to the proposed parcels it does not form part of this application.
34. Policy DM1 sets out a presumption in favour of sustainable development in accordance with the NPPF. The policy states that the Council will take a positive approach to development when planning applications accord with the Local Plan, approving them without delay, unless material considerations indicate otherwise.
35. Spatial Objective ENV1 of the Forest Heath Area Core Strategy contains a commitment to conserve and enhance the many habitats and landscapes of international, national and local importance within Forest Heath and improve the rich biodiversity of the whole District.
36. Core Strategy Policy CS2 seeks to ensure that areas of landscape biodiversity, geodiversity interest and local distinctiveness within the District will be protected from harm and their restoration, enhancement and expansion will be encouraged and supported through a variety of measures.
37. Policy DM10 of the Joint Development Management Policies Document seeks to control the impact of development on sites of biodiversity and geodiversity importance and is complemented by policies DM11 and DM12 in relation to protected species and the mitigation, enhancement, management and monitoring of biodiversity.

38. Policy DM5 seeks to protect areas designated as countryside from unsustainable development. A number of exceptions are listed within the policy with d) *essential small scale facilities for outdoor sport or recreation or other uses of land which preserve the openness, appearance and character of the countryside...*
In this case, whilst the area is outside the settlement boundary, no built development is proposed. The areas will remain open, preserving the countryside views and character of the area.
39. Furthermore, policy DM42 supports the provision, enhancement and expansion of recreational open space with DM2 acknowledging the need for all development to contribute to local distinctiveness and respect landscape character and create a sense of place.
40. Objective B of the Newmarket Neighbourhood plan seeks 'To Improve and Promote the Well-Being of All Residents' and Objective C 'To Value and Protect Our Environment'. This leads onto 'Community Action A2: Access to Landscape Newmarket Town Council will encourage people to view the landscape as an integral part of the town by: i. encouraging access for residents and visitors wherever and whenever this is possible ii. publicising that permitted access times to the training grounds start at 1.00pm iii. identifying appropriate walking routes, including circular walks'.
41. Additionally, Policies NKT12 and NKT13 acknowledge the deficit of accessible greenspace in Newmarket suggesting that this deficit is mitigated by providing new greenspace as part of developments.
42. Newmarket Town Council have raised concerns over the loss of farmland. The majority of the site is classified as grade 4 agricultural land with a portion of K1 grade 3. Consequently, the proposal will not result in a loss of best and most versatile agricultural land which planning policy seeks to protect.
43. The proposal seeks to create additional recreational open space and therefore meets the objectives of the spatial and specific development management policies outlined above. Subject to acceptable landscape impacts and the proposal meeting the habitat regulations assessment, the principle of development is considered acceptable.

Impact on Landscape

44. Core Strategy Policy CS3 seeks to protect, conserve, and where possible enhance, the quality, character, diversity and local distinctiveness of the District's landscape and historic environment. Proposals for development are required to take into account the local distinctiveness and sensitivity to change of distinctive landscape character types. Joint Development Management Policy DM13 seeks to ensure that development will not have an unacceptable impact on the character of the landscape, landscape features, wildlife or amenity value.
45. The NPPF states the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Furthermore, as acknowledged within the

Development plan and national policy, the benefits of open spaces near residential areas can add significantly to quality of life.

46. Landscaping plans have been provided with the application which show the parcels planted with woodland trees and scrubs with mown pathways between. The planting will establish over time but ensure that views are available through to the wider countryside to the north. Whilst more formal open space with public surveillance is provided within the development site, these areas allow for a more rural experience without using the car to travel further afield.

47. Some minor changes to the layout and planting have been proposed by West Suffolks Landscape Officer and as such, whilst the principle is acceptable a condition is recommended to agree final planting details.

Habitat Regulation Assessment

48. Whilst Natural England have considered the Habitats Regulations in their response to this application, the proposal in this case for a change of use with no built development does not require this assessment to be carried out.

49. In 2019 Natural England updated their guidance in respect of impact risk zones and the need to ensure appropriate consideration of recreational pressure impacts through residential development to sensitive sites of special scientific interest. This guidance confirmed that applications relevant to this guidance where those for; new dwellings, Houses in Multiple Occupation (HMOs), student accommodation, residential care homes, residential caravan sites and gypsies, travellers and travelling show people plots. Given that this application is for a change of use of land with no built development the guidance referred above is not applicable and a habitats regulations assessment is not required.

50. Notwithstanding this, Natural England are satisfied with the application as proposed. This additional open space will be provided prior to occupation of the first dwelling at Hatchfield farm and this will be secured through a deed of variation to the S106 agreement.

Conclusion:

51. The proposals will provide additional open space to support the approved outline residential scheme of 400 dwellings at Hatchfield Farm. This will provide considerable societal and environmental benefits which weigh significantly in favour of the application. Given the desire within both local and national policy to secure access to outside space for residents from both an environmental perspective as well as that of health and wellbeing the proposal receives officers full support. Additionally, the drive for biodiversity net gain offers further support for the native woodland planting proposed in accordance with Policy DM12. As such there are no dis-benefits associated with this proposal.

52. The proposal is considered policy compliant as set out in the report above. In conclusion, the principle and detail of the development is considered to be acceptable and in compliance with relevant development plan policies and the National Planning Policy Framework.

Recommendation:

53. It is recommended that planning permission be **APPROVED** subject to completion of the deed of variation to the existing legal agreement and the following conditions:

1. The development hereby permitted shall be begun not later than three 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, unless otherwise stated below:

Location plan	210157-3DR-XX-00-DR-A-10089 REV P01
Block plan	210157-3DR-XX-00-DR-A-10088 REV P01

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

3. Prior to any planting taking place within parcels K1, K2 and K3 a scheme of soft landscaping for the site drawn to a scale of not less than 1:200, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include accurate indications of the position, species, girth, canopy spread and height of all existing trees and hedgerows on and adjacent to the site. The soft landscaping details shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant sizes and proposed numbers/densities as well as positions of mown pathways and their connections. Any trees removed, dying or becoming seriously damaged or diseased within five years of commencement shall be replaced within the first available planting season thereafter with planting of similar size and species unless the Local Planning Authority gives written consent for any variation. The works shall be completed in accordance with the approved plans and in accordance with a timetable to be agreed with the Local Planning Authority.

Reason: To enhance the appearance of the development and to ensure that the most vulnerable trees are adequately protected during the periods of construction, in accordance with policies DM2, DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapters 12 and 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

4. Prior to any planting as approved under condition 3 takes place a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules and periods for all soft landscape areas (other than small privately owned domestic gardens) together with a timetable for the implementation of the landscape management plan, has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out in accordance with the approved details and timetable.

Reason: To ensure the longevity of the landscaping scheme and protect the visual amenity and character of the area, in accordance with policy DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapters 12 and 15 of the National Planning Policy Framework and all relevant Core Strategy Policies

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online <DC/23/1456/FUL>