



St Edmundsbury
BOROUGH COUNCIL

DEV/SE/15/55

Development Control Committee

1 October 2015

Planning Application DC/15/0873/FUL

Land for New Access Road, A1088, Ixworth

Date: 29 April 2015 **Expiry Date:** 24 June 2015
Registered:

Case Officer: Gemma Pannell **Recommendation:** Grant

Parish: Ixworth & Ixworth Thorpe **Ward:** Ixworth

Proposal: Planning Application – Introduction of a right turn ghost island junction on the A1088 to provide vehicular access.

Site: Land for New Access Road, A1088, Ixworth

Applicant: Persimmon Homes (Anglia)

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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Update Report and Risk Assessment Report

Background:

This application was deferred by the Development Control Committee on 3 September 2015 as Members sought further information with regard to the proposed right turn ghost island. During the debate members also initially proposed refusal of the application. Members were concerned that the proposal would have a detrimental impact on highway safety due to concerns about accident records within the vicinity of the site, and also on the grounds that an alternative solution may be available.

The applicant has requested that a decision is taken at the October meeting of the Development Control Committee and that they would not wish to see further delay until November, should members be 'Minded to Refuse' contrary to the Officer recommendation of Approval. The applicants have provided a further letter which it is understood have been circulated to Members but is included within this report.

This matter had originally been referred to Development Control Committee following consideration by the Delegation Panel. It was presented to Delegation Panel as Cllr John Griffiths, as Ward Member, objects to the proposal and sought determination through the Committee.

The previous Officer report for the September 2015 DC Committee meeting is included as Working Paper 1 to this report. Members are directed to this paper in relation to site description, details of development, details of consultation responses received etc.

The Officer recommendation remains one of APPROVAL.

Application Details:

1. See the Committee report in Working Paper 1. This is the report that was presented to Members at the Development Control Committee meeting on 3 September 2015. Members are directed to this report in relation to the description of development, site description, summary of representation received etc.

Officer Comment:

2. Since consideration of the application in August, Persimmon Homes have confirmed that they are willing to include as part of the proposals a lighting scheme and 40mph buffer, both subject to SEBC and SCC Highways approval, the details of which can be secured under a suitably

worded planning condition. The applicant has also asked that a decision is made on the application at the meeting of 1 October 2015 and Officers have also therefore prepared a risk assessment as part of this update report. The applicant is in a position that if a decision is not made at this meeting then they could appeal 'non determination' on the grounds of the failure of the Authority to determine the application within the prescribed timeframe.

3. The letter sent by the applicant to all Members is included with these papers.
4. If Members are minded to refuse this application then officers are mindful about the potential risks to the Council and consider it helpful to set such out in this report.

HIGHWAY SAFETY:

5. The detailed comments of the Highway Authority, which set out how this site has been considered and how the access proposals have developed since the inception of the masterplan in 2010 have been set out within Working Paper 1. However, the following key paragraphs are repeated below for clarity.
6. The ghost island junction is proposed between the roundabout on the A143 and a similarly designed right turned junction at the top of High Street. This allows drivers sufficient time to adjust from each junction and have good forward visibility to the proposed junction. The proposed junction has the required visibility required on the western side of the junction and has good inter-visibility to the eastern side to and including the existing roundabout.
7. In assessing the current and previous applications the County Council is able to recommend that a right-turn ghost island junction is a safer option for Ixworth, rather than an increase in the number of arms on the current roundabout.
8. The application under consideration has the full support of the Highway Authority and there are considered to be no material technical grounds for refusal of the application. It must also be noted, in any event, that a proposal cannot be resisted simply because there might or might not be a 'better' or more preferable solution, Rather, this scheme must be assessed on its own technical merits in relation to its particular impacts. When assessed on this basis it must be concluded that the proposal will not have an adverse impact upon highway safety, such that a refusal could be justified.
9. During the consideration of the application in September, Members questioned why this form of junction provision to gain access to the wider allocated site was preferred to a five arm roundabout. Taking into account that a similar five arm roundabout served existing development off the A143 / A1088 junction at the southern end of the village. The safety implications arising from five arm roundabouts are set out in detail in the

September DC Committee report. Again, however, it is stressed that it is not a case of it being a preference for one solution over another; rather it is an assessment of the applicants preferred solution on its own merits that is the matter before us.

10. Members also asked whether there were other options available e.g. an additional access via Crown Lane. As advised, the acceptability, or not, or preference of any alternative scheme is not relevant to the consideration of this application. Rather, it is the acceptability, in highway safety, visual and amenity terms, of the right turn ghost island, which has been presented by the application for consideration.
11. The applicant has submitted a detailed letter, which it is understood has been sent directly to Members. A further copy is attached for the avoidance of doubt. This confirms that they are willing to provide a 40mph buffer zone and lighting scheme and that the details of which can be provided via condition, and which would be subject to the approval of Suffolk County Highways. Suffolk County Council as Highway Authority has confirmed its satisfaction with this approach. This can be reflected in the proposed conditions.
12. These points can be taken as helpful in supporting the scheme but, noting that the Highway Authority were previously content with the highway safety implications, can only be given modest weight in favour of the development, noting that the junction has been considered acceptable without these additional measures.
13. The letter from Persimmon also responds to the request from members for additional modelling and states that as 475 dwellings and their associated trip rates can be accommodated by a right turn ghost island junction could represent a maximum potential outcome, it is not considered that the provision of traffic flow data for dwellings and an educational facility needs to be provided as the associated trip rates would not exceed those produced by the maximum outcome of 475 dwellings. Therefore no additional data has been submitted for consideration.
14. Accordingly, and for the reasons set out in the original Committee report (Working Paper 1), it remains Officers' firm and considered recommendation that permission be granted. If Members remain minded to refuse the application then they must be satisfied that the implications upon highway safety will be significant, such that they justify a refusal of planning permission. As advised, a preference for any alternative scheme is not a reason for refusal of planning permission, and in itself would be unreasonable without a robust justification.

RISK ASSESSMENT

15. If Members remain of the opinion that this application should be refused then they must be aware of any potential risks that may arise. A significant risk is that the applicant will lodge a successful appeal which, if the Authority is unable to defend its reason for refusal, may leave it vulnerable to an award of costs.

16. The Local Planning Authority is required to defend any reason for refusal at appeal and this is clearly outlined in the National Planning Practice Guidance. This states that one of the aims of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, and not to add to development costs through avoidable delay.
17. Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:
- preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
 - failure to produce evidence to substantiate each reason for refusal on appeal
 - vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
18. For the reasons set out above, and in particular, the comments given by the Highway Authority that indicate that there are no technical grounds for refusing this application, it is Officers' opinion that any appeal would have a very reasonable prospect of success. Furthermore, it is considered that an award of costs against the Authority is likely on the basis that it is unable to objectively and robustly defend its reason for refusal. To refuse on the basis of highway safety impacts, when it is considered conclusively by the relevant Authority that there are no grounds for such would most likely lead, in the opinion of Officers, to only 'vague' and 'generalised' concerns being given through any appeal and which would be 'unsupported by any objective analysis'. For this reason Officers' advice to Members is to proceed with care in this regard.
19. The other risk to the Authority from a refusal is considered to be reputational, particularly if an application for costs against the Council is awarded, which is considered likely in this case.
20. Taking all the above factors into account, the overall risk to the Authority of a refusal is considered to be significant in this case.

CONCLUSION

21. It remains the opinion of Officers that the proposed right turn ghost island is acceptable when considered on objective technical grounds. Any such approval would be subject to the conditions set out within the original Officer report, plus that additional condition proposed below.
22. However should Members remain of the opinion that the proposal is

unacceptable it is suggested that the following reason be used:

The proposed right turn ghost island is situated on an A road, between a roundabout and staggered junction. It is not considered on the basis of the information received that the proposed ghost island would result in safe form of access to and egress from the site, which could accommodate up to 400 dwellings. Accordingly, the proposal will lead to material harm to matters of reasonable highway safety at and within the vicinity of the site. This is contrary to the requirements of Para 32 of the National Planning Policy Framework and Policy CS3 of the Core Strategy, which between them seek to ensure safe and suitable access to all sites.

23. It must be reiterated that this is not a reason that Officers consider would withstand the scrutiny of a planning appeal. Officers further advise that an award of costs against the Authority would be likely on the basis that it is unable to objectively defend this reason. Within this context, the following recommendation remains.

Recommendation:

It is **RECOMMENDED** that planning permission be **Approved** subject to the conditions outlined within working paper 1, plus the following additional condition –

11. Details of a 40mph buffer zone and lighting scheme are to be submitted and approved in writing, in consultation with Suffolk County Council Highway Authority, and thereafter provided before the access is first brought into use.

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