

BOROUGH OF KETTERING

Committee	Full Planning Committee - 17/01/2017	Item No: 5.2
Report Originator	Sean Bennett Senior Development Officer	Application No: KET/2016/0675
Wards Affected	Slade	
Location	Silverhills Bungalow, Old Road, Broughton	
Proposal	Outline Application: Residential development with all matters reserved	
Applicant	Living Country Home	

1. PURPOSE OF REPORT

- To describe the above proposals
- To identify and report on the issues arising from it
- To state a recommendation on the application

2. RECOMMENDATION

THE DEVELOPMENT CONTROL MANAGER RECOMMENDS that this application be REFUSED for the following reason(s):-

1. The proposed development would not accord with the relevant Development Plan policies in particular 'saved' policies 7 and RA5 of the Local Plan in the Kettering Borough Adopted 1995 and policies 11 and 29 of the North Northamptonshire Joint Core Strategy (JCS) which seek to concentrate future developments primarily in the Borough's Growth and Market Towns, whilst strictly controlling development in the remainder of the rural areas in order to provide sustainable growth and to protect the intrinsic character of the countryside and rural area. In addition the proposal is in conflict with policies 8(a) and 15 of the JCS that seeks the provision of sustainable transport links and pedestrian connectivity. It is not considered that there are material planning considerations that would outweigh this conflict as the development is also considered to conflict with guidance contained within the National Planning Policy Framework in that it involves development in a location that will not contribute to sustainable development objectives and to meeting housing need in a way that is in line with the spatial vision for the area, taking into account the Council's ability to identify a supply of specific, deliverable sites sufficient to provide 5 years' worth of housing requirements.

2. The proposal would be harmful to the rural character and appearance of the area by reason of its scale and location and be perceived as an illogical conspicuous residential intrusion into the open countryside. In addition the proposal would result in a harmful change to the green lane character of PROW (Bridleway) GG11. Furthermore the proposal relates poorly with the village by being outside of the existing well defined village boundary and therefore would appear detached from Mawsley. The application is therefore contrary to Policies 3(a) and 8(d) of the Joint Core Strategy and Chapter 7 of the National Planning Policy Framework.

3. Policy 10 of the North Northamptonshire Joint Core Strategy is concerned with infrastructure and developer contributions, and states that 'Developers will either make direct provision or will contribute towards the provision of infrastructure required by the development'. This is consistent with the National Planning Policy Framework. In the absence of a signed legal undertaking the Council cannot be satisfied that the development proposal would make sufficient provision for the improvement or provision of: Education infrastructure, Affordable housing, Public Open Space; Highway Infrastructure; Library infrastructure and Fire and Rescue provision. The application is therefore contrary to Policy 10 of the Joint Core Strategy.

4. The proposal has failed to justify loss of the agricultural rural business or otherwise discount the use of the site for an acceptable alternative commercial use. As such the development fails to support the rural economy and results in the unwarranted loss of a rural employment site harmful to the sustainability of the surrounding rural area. Thereby the proposal is contrary to policy 22(c) of the North Northamptonshire Joint Core Strategy and is inconsistent with Chapter 3 of the NPPF.

5. The application has failed to demonstrate that a suitable means of access can be delivered to serve the proposed development and has also failed to provide an acceptable travel plan and therefore adequately demonstrate that the proposal would not have a detrimental impact upon the safety of the local highway network and subsequently that the impacts of the proposed development can be suitably mitigated. The proposal is therefore in conflict with policy 8(b) and Chapter 4 of the NPPF.

6. The proposal has failed to demonstrate that the development would not have an adverse impact to flooding by virtue of the provision of insufficient information relating to the acceptability of the proposed surface water drainage scheme. As such the proposal is contrary to policy 5 of the North Northamptonshire Joint Core Strategy and inconsistent with Chapter 10 of the NPPF.

7. The proposed development involves the use of a non-mains foul drainage system in a publicly sewered area but has failed to provide adequate justification for this method of foul sewage proposal, which has the greater risk of failures leading to pollution of the water environment compared to public sewerage systems. As such the proposal is contrary to Policy 5(f) of the North Northamptonshire Joint Core Strategy and inconsistent with DETR Circular 03/99 (Paragraphs 3 and 4).

Officers Report for KET/2016/0675

This application is reported for Committee decision because Councillor Hakewill has asked for it to be considered regardless of Officer Recommendation

3.0 Information

Relevant Planning History

KR/1972/77 – Erection of pig breeding unit and two bungalows – APPROVED – 14/08/1972

KE/1988/0614 – Erect 2 grain silos – APPROVED – 25/08/1988

KE/1988/0613 – Erection of two mobile homes for persons employed in agriculture – APPROVED – 02/2011/1988

KE/1991/0817 – Replacement of redundant farm buildings with new workshop units – APPROVED – 15/10/1992

Site Description

Officer's site inspection was carried out on 18/11/2016 and 06/01/2017

The site comprises a rectangular parcel of land located in the open countryside measuring approximately 2 ha formerly associated with the rearing of pigs and consisting of an agricultural bungalow, sizeable barns and also a large lagoon. The site is located part way between Mawsley, approximately 450m to the north-west and the A43, approximately 1 mile to the east with Broughton beyond.

The site is in the same ownership as two areas of paddock land to the north and south with the latter between the proposed development and the highway with hedging and trees forming the boundary to this wider site. The eastern edge to the site is bounded by Public Right of Way (PROW) Bridleway (GG11) which runs broadly north to south travelling to Great Cransley to the north-east and also links up with PROW GG19 which gives access to Mawsley. The surrounding land comprises of arable farmland with boundary hedging and trees.

Proposed Development

The application seeks outline planning permission with all matters reserved for a residential development. The application is presented in hybrid fashion with one of the indicative layouts showing thirteen detached executive sized dwellings and a village hub building around a village green with a sustainable urban drainage system toward the sites northern edge. A second indicative proposal shows a retirement village with 54 units.

Any Constraints Affecting the Site

Public Right of Way (GG11)
Open Countryside

4.0 Consultation and Customer Impact

Great Cransley Parish Council: *Objection* stated with the following summarised comments:

- The site has a tied agricultural use
- Located in the open countryside
- Outside the residential area that will be defined in the Neighbourhood Plan
- The site does not have lawful use for commercial storage
- The application is contradictory

Broughton Parish Council: *objection* stated on the basis of the proposal representing inappropriate and unsustainable development in open countryside. They go on to say that if developed out as a retirement complex the development will be unduly isolating for residents.

NCC Local Highway Authority (LHA): Say that they *have concerns over the sustainability of the site location and the ability to gain required visibility and junction spacing across the site frontage.*

NCC Lead Local Flood Authority: Advise that *there is insufficient information available to comment on the acceptability of the proposed surface water drainage scheme.*

NCC Archaeology: **No objection** subject to the imposition of a condition requiring a written scheme of investigation to be agreed.

Environment Agency: *Objection* stated on the basis of *the justification provided by the applicant for non-connection to the mains sewerage system being deficient.*

5.0 Planning Policy

National Planning Policy Framework (NPPF): Core Principles, Chapter 3 (Supporting a prosperous rural economy) Chapter 4 (Promoting sustainable transport) Chapter 6 (Delivering a wide choice of quality homes), Chapter 7 (Requiring good design), Chapter 8 (Promoting healthy communities), Chapter 10 (Meeting the challenge of climate change, flooding and coastal change), Chapter 11 (Conserving and enhancing the natural environment) and Chapter 12 (Conserving and enhancing the historic environment).

Development Plan Policies

North Northamptonshire Joint Core Strategy (JCS) Policies:

1. Presumption in favour of sustainable development
2. Historic environment
3. Landscape character
4. Biodiversity and geodiversity
5. Water environment

- 6. Development on brownfield land and land affected by contamination
 - 7. Community services and facilities
 - 8. Place shaping
 - 9. Sustainable buildings
 - 10. Provision of infrastructure
 - 11. The network of urban and rural areas
 - 13. Rural exceptions
 - 15. Well-connected towns, villages and neighbourhoods
 - 16. Connecting the network of settlements
 - 28. Housing requirements
 - 29. Distribution of new homes
 - 30. Housing mix and tenure
- Appendix 4 – the assessment of housing land supply relative to the requirements of JCS Policy 28

Local Plan Policies:

- 7. Environment: Protection of the Open Countryside
- RA5. Rural Area: Housing in the Open Countryside

6.0 Financial/Resource Implications

Section 106 – The application is accompanied by a draft Heads of terms in relation to the provision of 30% affordable housing, open space, highway and public transport and education contributions and any other matters identified through the planning process

7.0 Planning Considerations

The key issues for consideration in this application are:-

- 1. The principle of the development
- 2. Loss of a rural based business
- 3. Impact on the character and appearance of the area
- 4. Impact on residential amenities
- 5. Impact on the safety and convenience of the highway
- 6. Impact on flooding and sewerage provision
- 7. Impact on ecology
- 8. Impact on archaeology
- 9. Community infrastructure
- 10. Benefits
- 11. Planning Balance

1. The principle of the development

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. As detailed at section 5 above, the development plan consists of the Saved Policies of the Local Plan and the recently adopted North Northamptonshire Joint Core Strategy, with the National Planning Policy Framework (NPPF) as a significant material consideration in planning applications. Other material considerations include

the Planning Practice Guidance, Supplementary Planning Documents and Guidance, and supporting reports and strategies.

Development Plan: The site is not allocated for development within the Local Plan (LP) and classified as 'open countryside' and thereby considered under policies 7 and RA5 of the LP. The proposed development (given its scale, accessibility and nature) would not meet the tests of the JCS's open countryside exception policy 13. In addition the proposed development would not accord with the strategic aims or the spatial strategy for the Boroughs rural areas of the JCS in policies 1 and 11 and by virtue of the proposed scale, nature and location of the proposal would also not accord with policies 8 and 15 of the JCS. Therefore, the principle of the development is contrary to the two components of the Development Plan. As such, in accordance with planning law, planning permission should be refused unless material considerations indicate otherwise. In this case, a material consideration to which significant weight has been applied is the NPPF.

National Planning Policy Framework (NPPF): The golden thread running through the Government's policy document is the presumption in favour of sustainable development and advises that for decision making this means. *'Approving development that accords with the development plan without delay and where a development plan is absent, silent or out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF, or if the policies in the NPPF advise against it.'* (Para 14).

The NPPF states Local Plan policies for supply of housing should not be considered up-to-date if a Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites (Para 49). As it is considered that the Borough can provide a five year supply of housing, as evidenced by the JCS, the Local Plan and the JCS is therefore up-to-date. As such the development is in conflict with Local Plan policies and the NPPF that seek a sustainable pattern of growth and to protect the intrinsic character of the open countryside.

In any event, irrespective of the District's current five year supply of housing position the development of the site would result in a form of un-sustainable development and therefore is inconsistent with the key thrust of the NPPF for seeking a sustainable pattern of growth. In particular the poor connectivity with Mawsley and other nearby settlements (including Kettering) severely counts against the sustainability of the proposal.

2. Loss of a rural based business

The Design and Access Statement that accompanied the application states that the site is currently being used for commercial storage. There is no planning history indicating that this use has been lawfully implemented. As such the sites lawful use relates to agriculture and specifically the rearing of pigs.

The submission has failed to tackle the disposal of the rural business as an issue and thereby has failed to demonstrate that there is no reasonable prospect of the site being used for agricultural purposes or any other alternative acceptable commercial use. Thereby the proposal is contrary to JCS policy 22 that seeks to safeguard existing employment sites for employment uses. This approach is consistent with Chapter 3 of the NPPF that seeks to support and promote agricultural and other land-based rural business.

3. Impact on the character and appearance of the area

Whilst the site consists of a number of large buildings, they are agricultural in appearance and character and therefore do not look out of place in their rural context and as such contribute to the areas rural character. The proposal would introduce a residential form of development alien within its surroundings and sufficiently detached from the nearby development at Mawsley to not be considered as an extension to that development but instead perceived as an illogical collection of dwellings in the open countryside.

Whilst the indicative plan provided for thirteen detached dwellings result in a spacious form of development consistent with that evident in Mawsley given that the site would be seen in the context of the areas rural character rather than the nearby village its low density would not significantly reduce the harm caused by the residential intrusion which would be conspicuous and out of place. The indicative plan (scheme 2) relating to the care home would introduce a bulky residential building and other dwellings into the countryside resulting in significant harm to the rural qualities of the area. The proposed position of the access would also fundamentally harm the green lane character of the bridleway it would follow.

The provision and retention of boundary landscaping and the creation of green spaces within the development would not effectively mitigate the urbanisation of the site and the harm it would have to the areas rural character.

4. Impact on residential amenities

Given the proximity of the proposal to the nearest residential neighbour at approximately 450m to the north-west at Mawsley the proposal would not result in harm to existing residences in the locality. Given the size of the site and that the proposal seeks outline approval only with all other matters reserved there is no reason to believe that an appropriately designed proposal could not result in a scheme that provides a good standard of residential amenity for future users of the site. As such the proposal is considered to be acceptable in this respect.

5. Impact on the safety and convenience of the highway

Whilst this application reserves consideration of the access arrangements it is appropriate to consider the impact of the proposal to the local highway network as a highway access would be required to serve the development and the red-line outline plan shows where the access would be.

In consideration of the proposal the Local Highway Authority stop short of stating objection to the proposal, however they do have concerns that amount to an objection. These concerns relate to the preservation of the PROW affected, failure to provide safe visibility splays due to the proximity of the access to a bend, doubts over the provision of a footpath to link with Mawsley and the lack of a travel plan.

As a result the proposal has failed to demonstrate that the proposal would not have significant detriment to the safety and convenience of the highway as well as have suitable sustainable connectivity in place. The proposal is therefore unacceptable in this respect.

6. Impact on flooding and sewerage provision

Whilst the proposal is not located within a flood sensitive area; by virtue of its size (over 1ha) the proposal, in accordance with Chapter 10 of the NPPF, should demonstrate that the proposal would not result in an increased chance of flooding on site or elsewhere. Policy 5 of the JCS, amongst other things, also seeks development to reduce flood risk and contribute toward flood risk management. The Lead Local Flood Authority (LLFA) says that the application has failed to provide sufficient information in this respect. In particular the LLFA requires an assessment of all flood risks including from groundwater, overland surface water flows, sewer flooding, infrastructure flooding and watercourse flooding – an explanation of how these flood risks would be managed would also be required. As such the proposal has failed to demonstrate that the proposal would not have an adverse impact to flood risk inconsistent with JCS Policy 5.

Moving onto the sites sewerage arrangements; the application proposes the use of a non-mains foul drainage system in a publicly sewered area. Policy 5 of the JCS also seeks to achieve appropriate wastewater infrastructure which in this case is supported by government guidance on non-mains drainage in Department of the Environment, Transport and the Regions (DETR) circular 03/99 (paragraphs 3 and 4). The DETR circular stresses that the first presumption must be to provide a system of foul drainage discharging into a public sewer. The circular goes on to say that only where having taken account the cost and/or practicability it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible, should non-mains foul sewage disposal solution be considered. The Environment Agency has considered the information submitted with the application and says that the justification provided for non-connection to the mains sewer is deficient. As such the proposal is inconsistent with Policy 5 of the JCS and the requirements of the DETR circular.

7. Impact on ecology

Paragraph 99 of Circular 06/05 states that: *it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.* Likewise section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that: every

public authority must in exercising its functions, have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity.

In consideration of this the application was accompanied by an Ecological Survey which included a habitat survey. The survey concluded that there was no evidence of bat roosts or badgers at the site and made a series of recommendations for the protection of those species if later found together with safeguarding recommendations in association with nesting birds, amphibians and reptiles. As such subject to the imposition of these recommendations, secured by condition, the proposal would not likely have a harmful impact to protected species.

Given the poor habitat quality of the site and in particular the potential for the lagoon and the paddock area to provide biodiversity enhancement this is considered to be a benefit associated with the proposal that must be taken into account when making the planning balance.

As such the proposal complies with policy 4 of the JCS, Chapter 11 of the NPPF and Natural England advice which require consideration of the impact on wildlife habitat and increased biodiversity to mitigate the impact of development and as such is considered acceptable in this regard.

8. Impact on archaeology

The County Archaeologist has no objection subject to the inclusion of a condition to require the prior approval of a programme of archaeological work. As a result the development would not likely result in harm to underlying archaeology that may exist. The proposal is therefore acceptable in this regard.

9. Community infrastructure

The applicants have indicated a willingness to provide financial contributions, by providing a Draft Heads of Terms for a Section 106 Agreement towards 30% affordable housing. This would also include contributions toward education and the provision of an on-site public open space and any other contributions that may be identified through the planning process.

At present, however, there is no signed Section 106 Agreement to secure these benefits. In the absence of this there is no assurance that the necessary infrastructure would be secured. As such the application is contrary to Policy 10 of the JCS that seeks the provision of mitigating infrastructure.

10. Benefits

Given that the Council currently has no shortfall in housing there is not considered to be any substantial weight that should be given in favour of the proposal especially given its unsustainable location.

The scheme would offer a number of social and economic benefits. These include the provision of direct and indirect jobs and increased local spend by future occupiers and biodiversity enhancements.

11. Planning Balance

The benefits that would accrue from the development are set out above and whilst some weight can be afforded to the economic and social dimensions of the NPPF, this weight is considered to be limited. In addition, whilst a modicum of weight could be afforded to the environmental role of the proposal, as a consequence of a net gain to biodiversity, there would be substantial environmental harm, in allowing unjustified development in the open countryside.

The proposal has also failed to demonstrate that the development would not have a detrimental impact to highway safety as well as have the necessary arrangements in place to provide acceptable footpath connectivity to Mawsley and demonstrate that the proposal would not have an adverse impact to flood risk and suitably demonstrate non-connection to existing mains sewerage infrastructure is justified. The proposal is also not accompanied by a signed financial contribution agreement and has failed to justify disposal of the agricultural employment use or an alternative acceptable commercial use.

Importantly the Council can demonstrate five years of housing land supply that is in accordance with its key aims for providing sustainable development and as such there is no requirement to bring forward speculative developments, such as this, in unsustainable locations to meet a housing need. Thereby there would also be conflict with the economic and social dimension of sustainability, which seeks to ensure, amongst other things, the delivery of land in the right place.

Paragraph 8 of the NPPF makes it clear that the dimensions to sustainable development are mutually dependent. As such and having regard to policies in the NPPF, the significant short-comings of the scheme in all three dimensions (economic, social and environmental) despite some limited benefits, result in the firm view that the proposal cannot be considered sustainable development, especially in light of the Council's current housing land supply position.

Conclusion

The application is recommended for refusal on the grounds that the proposed development would not accord with the relevant Development Plan Policies or the Joint Core Strategy. These Policy documents seek to concentrate future development to the Boroughs Growth Town and Market Towns, whilst strictly controlling development in the rural areas in order to provide sustainable growth and to protect the intrinsic character of the countryside.

It is not considered that there are material planning considerations that would outweigh this conflict as the Council has a five year supply of housing land and in addition, the adverse impacts of approving the development would significantly and demonstrably outweigh the benefits by reason of harm to the rural character of the area together with the other areas of harm or failures to demonstrate identified. The proposal is therefore also contrary to the NPPF and it fails to demonstrate any valid exceptions to the presumption against residential development in this location, either by providing essential support for local services under threat or providing exception site housing to meet a

locally identified need. The proposal is not supported locally or brought forward as a result of a neighbourhood plan through the government's Localism Agenda. As a result the application is recommended for refusal.

Background Papers

Title of Document:

Date:

Contact Officer:

Sean Bennett, Senior Development Officer on 01536 534316

Previous Reports/Minutes

Ref:

Date: