

AGENDA ITEM NO: 8/1(i)

Parish:	Wiggenhall St Germans	
Proposal:	Outline application: Proposed residential development - 3 detached dwellings (2 storey)	
Location:	Land South of 50 Common Road Wiggenhall St Mary the Virgin Norfolk	
Applicant:	Mr M J Steley	
Case No:	15/00949/O (Outline Application)	
Case Officer:	Mr K Wilkinson Tel: 01553 616794	Date for Determination: 14 August 2015

Reason for Referral to Planning Committee – Called in by Councillor Hopkins

Case Summary

The application site is located on the western side of Common Road, Wiggenhall St Mary the Virgin and to the south of number 50.

The site comprises agricultural land, in designated Countryside as detailed within the adopted Local Plan and the Emerging Site Allocations and Development Management Policies Pre-Submission Document. A recent High Court decision against the Council has however had an impact upon how housing applications are to be dealt with in policy terms.

Outline planning consent (with all matters reserved matters for future consideration) is sought for the erection of three detached two storey dwellings.

Key Issues

Planning history;
Principle of development;
Form and character;
Highways;
Flood risk; and
Other material considerations

Recommendation

REFUSE

THE APPLICATION

The application site is located on the western side of Common Road, Wiggenhall St Mary the Virgin and to the south of number 50 and approximately 550m south of the junction with The Avenue and the central hub of the village. Wiggenhall St Germans is approximately 1.6km east of the proposal site.

The site comprises agricultural land, in designated Countryside as detailed within the adopted Local Plan and the Emerging Site Allocations and Development Management Policies Pre-Submission Document. However a recent High Court decision against the Council is impacting on how housing applications are to be dealt with in the Borough, as this states that the Council does not have a 5 year land supply.

The site is rectangular in shape (approximately 0.22ha) and comprises agricultural land (Grade II). Outline planning consent (with all matters reserved matters for future consideration) is sought for the erection of three detached two storey dwellings. An indicative layout plan has been submitted which demonstrates how three dwellings and garages could be accommodated on the site. The submitted indicative plan also shows a passing bay across part of the frontage of plot 1.

SUPPORTING CASE

The application is supported by a Contamination and Flood Risk Assessment.

The Contamination Assessment concludes that there is little general potential for contamination on site.

The Flood Risk Assessment concludes that to safeguard against the extreme event of the River Great Ouse tidal defences being breached, the proposed floor level of the new dwellings will be raised 500mm above Common Road carriageway at a minimum of 1.5m aOD with flood proofing measures adopted up to 2.00m aOD.

PLANNING HISTORY

07/02323/O: Application Refused: 07/01/08 - Outline Application: construction of 4 dwellings

07/01857/O: Application Withdrawn: 25/10/07 - Outline Application: Construction of 4 detached dwellings

RESPONSE TO CONSULTATION

Parish Council: OBJECTION This proposal is on agricultural land that has been used for grazing, it is not "amenity land". A proposal of this type in this location is unsustainable. The site location is incorrect it is on the west side of Common Road. This area was not allocated for development in the present or emerging LDF.

Highways Authority: As you will be aware Common Road is narrow with minimal passing provision, and in the Highway Authority's response to an earlier outline application (ref: 07/02323/O) it was stated that a passing bay should be provided to the north of the frontage of the site to compensate for the narrowness of the Common Road. We remain of the opinion that this is still appropriate in relation to this proposal and I note that the applicant has indicated that one would be provided. Also any proposal would also need to comply with visibility, access and parking issues in accordance with current standards which would be considered under reserved matters considerations.

Notwithstanding the above, the proposed development site is remote from schooling; town centre shopping; health provision and has restricted employment opportunities with limited scope for improving access by public transport. The distance from service centre provision precludes any realistic opportunity of encouraging a modal shift away from the private car towards public transport, cycling and walking. The National Planning Policy Framework (NPPF) not only supports the need for "safe and suitable access...for all people", but also encourages the importance of being able to make every day journeys without reliance on a motor car. Sustainable transport policies are also provided at a local level through Norfolk's 3rd local transport plan Connecting Norfolk - Norfolk's Transport Plan for 2026. Policy 5 of the document states "New development should be well located and connected to existing facilities so as to minimise the need to travel and reduce reliance on the private car or the need for new infrastructure".

It is the view of the Highway Authority that the proposed development is likely to conflict with the aims of sustainable development and you may therefore wish to consider this point within your overall assessment of the site.

Should your Authority seek to approve the application a condition to secure visibility splays, access arrangements, parking provision, turning areas and a passing bay.

King's Lynn Drainage Board: NO OBJECTION

Environmental Health & Housing - Environmental Quality: NO OBJECTION Based on information supplied and held within this section, there are no comments to make for this proposal regarding contaminated land or air quality issues.

CSNN: NO OBJECTION

Environment Agency: The site is located within Flood Zone 3 (high risk) of our Flood Zone map and your Authority's Strategic Flood Risk Assessment map (SFRA). The SFRA also indicates that the site falls within a flood hazard zone (at risk of rapid inundation should flood defences breach or overtop). In addition, our Tidal Hazard Mapping indicates that the site would flood up to a depth of 0.5 metres in an event of overtopping or breaching of the Tidal River Ouse's flood defences.

Accordingly, the proposed development will only meet the requirements of the National Planning Policy Framework if the measures as detailed in the outlined Flood Risk Assessment submitted with this application are implemented and secured by way of a planning condition on any planning permission.

Emergency Planner: Recommend that as the site is in an area at risk of flooding conditions are suggested on relation to the occupier's signing up to the Environment Agency Floodline Warnings Direct and preparation of a flood evacuation plan.

Natural England: NO OBJECTION This application is in close proximity to the Wiggerhall St. Germans Site of Special Scientific Interest (SSSI). Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified. It is advised that this SSSI does not represent a constraint in determining this application.

REPRESENTATIONS

ONE letter of representation received. The key objections are:

- The proposed land is grazing/agricultural land and should not be built on
- Common Road is unsuitable for a large amount of traffic

NATIONAL GUIDANCE

National Planning Policy Framework – sets out the Government's planning policies for England and how these are expected to be applied.

National Planning Practice Guidance - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS09 - Housing Distribution

CS11 - Transport

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PRE-SUBMISSION DOCUMENT

DM1 – Presumption in Favour of Sustainable Development

DM2 – Development Boundaries

DM3 - Infill development in the Smaller Villages and Hamlets

DM15 – Environment, Design and Amenity

DM16 – Provision of Recreational Open Space for Residential Developments

DM17 - Parking Provision in New Development

DM21 - Sites in Areas of Flood Risk

PLANNING CONSIDERATIONS

The key considerations relevant to the determination of this application are:

- Planning history;
- Principle of development;
- Form and character;
- Highways;
- Flood risk; and
- Other material considerations.

Planning history

Two previous planning applications have been received on this parcel of land; the first being in 2007, planning reference number 07/02323/O. This was an outline application with all matters reserved for the construction of four dwellings. This application was however withdrawn prior to determination. Subsequently to this initial application a further application was received (planning reference number 07/02323/O) for outline permission for the construction of four dwellings. After due consideration the application was refused by the Planning Committee for the following reasons:

1. Planning Policy Statement 7 seeks to strictly control new housing development in the countryside away from established settlements. Special justification for those dwellings essential to agriculture, forestry, organised recreation or the expansion of an existing institution, where it can be demonstrated that the proposed development could not be met within an existing settlement, may be exceptionally granted. The proposal for the development has not sufficiently demonstrated that the proposal is linked to such uses or that special circumstances have been shown to exist. The proposal is consequently contrary to the provisions of Planning Policy Statements 1 and 7.

2. Planning Policy Statements 1, 3 and 7 require new housing development to be in a sustainable location, close to services and facilities. This location is sited in a remote countryside location, is away from an existing settlement and has poor access to public services and facilities normally associated with a sustainable location. The proposal is therefore contrary to the principles of 'sustainable development' set out in Planning Policy Statements 1, 3 and 7.

3. The proposed development, if permitted, would create a precedent for other proposals for new development on land similarly deemed 'Countryside' in the locality and surrounding areas. This would result in an unacceptable consolidation of sporadic, unsustainable development which would undermine the character and appearance of the 'Countryside'. Therefore the proposal is contrary to Planning Policy Statements 1, 3 and 7.

It is however recognised that since these two applications were considered, planning policies both at National and Local levels have been updated; Planning Policies Statements being replaced by the National Planning Policy Framework (NPPF) and Planning Practice Guidance notes, the emergence and adoption of the King's Lynn and West Norfolk Core Strategy and the emerging Site Allocations and Development Management Policies Pre-Submission Document.

Principle of development

The application site was in previously designated countryside (the boundary went round number 2 Common Road and number 43 Common Road, on the opposite side of the road to the site) as identified on the King's Lynn & West Norfolk Local Plan (1998) Inset Map for Wiggenhall St. Mary the Virgin.

Within the Core Strategy Wiggenhall St. Mary the Virgin is classified as a Smaller Village and Hamlet (SVH) in the Settlement Hierarchy set out under Policy CS02. The supporting text of this Policy states that these are villages with little or no services, therefore it would be inappropriate to seek further development in these places.

Policy CS06 makes it clear that housing development in Rural Villages and Smaller Villages and Hamlets will be as detailed in Policy CS09 (Housing Distribution). Policy CS09 makes no provision for housing in the SVHs. This is reiterated in Appendix 1 (Housing Trajectory) of the Core Strategy where no 'new allocations' are proposed below the hierarchal level of Rural Villages (i.e. SVH).

Policy DM2 'Development Boundaries' details that outside development boundaries and defined allocations will be treated as countryside and will be limited to the provision of affordable housing, community facilities, development in support of the rural economy or to represent sensitive infilling of small gaps within an otherwise continuously built up frontage (SVH only).

Following however the High Court's judgement (Fosters site at Clenchwarton) relating to the Council's 5 year land supply it is confirmed in the absence of a 5 year supply that the Council's housing supply policies (detailed above) are deemed to be out-of-date and the policy stance to determine planning application should be taken from the guidance contained within the NPPF, in-line with the requirements of paragraph 49 which details that "Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

The NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 14 of the NPPF deals with this presumption in favour of sustainable development.

Keeping this in mind it is considered that the proposal for three new dwelling houses is located outside of the former boundaries to the village, and whilst adjacent to other built forms, this is only sporadic housing with associated agricultural buildings. It is also clear that the character of this part of Common Road changes, having a much more rural and verdant nature with hedging to the road boundary. It is therefore contended by officers that the site is spatially and visually detached from the village. Taking into account paragraph 14 of the NPPF, which states that "where the development plan is absent, silent or relevant policies are out-of-date, granting permission: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted", it is considered that the adverse impacts, of locating three dwellings in an unsustainable rural location would outweigh the benefits that the provision of three additional dwellings would make to the five year land supply.

Form and character

The application site is well outside the former development boundary for the village, the area to the south of the village that contains a few dwellings and agricultural type building and has a much more sporadic nature when compared to the tighter pattern of development to the village itself.

The road boundary to the site is defined by a timber post and rail fence and a small amount of hedge planting.

The character of the site and adjacent land is clearly quite different to the former defined village; the proposed three dwellings on this relatively large site would represent a low density scheme, but would quite clearly alter the character of this rural location and appear as a significantly harmful visual intrusion within open countryside.

As this is an outline application with all matters reserved, no details are provided of the siting and external appearance and therefore an assessment cannot be made in terms of its relationship to other properties, although an indicative layout is provided, which illustrates that three dwellings would fit on the site. It is however acknowledged that as the site is within a hazard zone and flood zone 3 the dwellings finished floors levels will need to be raised to 1.5 metres above Ordnance Datum, which could have implications on the external appearance of the properties, nevertheless this could be designed out to achieve a form of development that would not be visually prominent.

Highways

Norfolk County Highways have raised no objection to the proposal in terms of highway safety aspects and recommend a condition. They also raise concern about the remoteness of the site from services that are necessary to sustain the occupiers of a dwelling/s. The site is on a country lane which is not lit by street lighting and has no footpaths; furthermore a large part of the road frontage of the site falls outside of the 30mph zone and within part of the road that falls within the national speed limit (60mph).

Flood risk

The site is located within Flood Zone 3 (high risk) of our Flood Zone map and your Authority's Strategic Flood Risk Assessment map (SFRA). The SFRA also indicates that the site falls within a flood hazard zone (at risk of rapid inundation should flood defences breach or overtop). The Environment Agency have confirmed that they have no objection to the proposal, subject to a safeguarding condition requiring that the finished floor levels are raised to 1.5m above Ordnance Datum and that flood resilient measures be incorporated into the construction.

Accordingly it is a requirement of the LPA to apply the sequential test to ensure that development is directed away from areas at highest risk of flooding. In this case Wiggshall St. Mary the Virgin village is all within flood zone 3 and most apart from a small packet around 15-21 Common Road (15 being part of a commercial site) is within the hazard zone (however the hazard zone designation does not need to be considered in sequential testing). It is therefore considered that there are no other areas within the established village development boundary that are in a lesser flood zone. As a result, the proposal passes the sequential test in accordance with the NPPF.

With regard to the Exception Test, it must be demonstrated that a) the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment and b) a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

In this case the site would provide three new dwellings however, the proposed site is not closely related to the existing settlement and in reality appears detached from the village.

Whilst it is appreciated that the dwellings would feed into the number of dwellings for the Borough, this is only a relatively modest number and is not judged to outweigh flood risk issues. A FRA accompanies the application which has been reviewed by the Environment Agency who raises no objections subject to the mitigation measures being taken.

It is concluded that the proposal fails part a) of the exception test.

Other material considerations

The issue of the classification of the land has been raised; if it is agricultural or amenity land although this is not a fundamental issue, as the land is not classed as previously development land and was previously outside the development boundary as described above. It is however noted by officers that at the time of a site visit the land was roughly grassed and not cultivated from crops.

There are no crime and disorder issues raised by this proposal.

The site is within a buffer zone for the Wiggshall St. Germans SSSI, however Natural England have confirmed that they have no objection to the proposal.

CONCLUSION

The Council's adopted Core Strategy indicates that new housing should be resisted in areas that offer little or no services in order to facilitate sustainable growth in the larger villages and towns of the borough. The application site lies close to a settlement defined as a 'Smaller Village and Hamlet', where in-filling would have been considered acceptable. However, following a recent High Court decision against the Council, it was found that the Borough's housing policies are out-of-date and therefore the NPPF should form the policy context against which to assess planning applications, relating to housing supply.

In this case it is considered that the adverse impacts of locating three dwellings in such a location, which is clearly detached from the village, and in flood zone 3 would significantly or demonstrably outweigh the benefits of the proposal. On this basis it is considered that there remains a housing policy objection, as the proposal is not sustainable development. Whilst it is recognised that there is planning history relating to the site, it is considered that this decision was approximately 7 years ago and policies have changed considerably in this period and a lesser weight should now be attached in the consideration of this history, although it remains a material planning consideration.

Technical issues pertaining to highway safety and flood risk mitigation can be adequately addressed through planning conditions. The specifics of the scheme for the three dwellings would need to be assessed through a reserved matters application. There are no outstanding issues raised by consultees or objectors. On the basis of the above it is recommended that the application is refused.

RECOMMENDATION:

REFUSE for the following reason(s):

- 1 The application site represents a residential scheme for three dwellings which appears visually detached and unrelated to the village of Wighenhall St. Mary the Virgin. The resulting proposal would represent a clear incursion into the open countryside detrimental to the visual amenities and rural character of the area and these adverse impacts would significantly and demonstrably outweigh the benefits to the schemes contribution to the Boroughs five year housing land supply contrary to paragraph 14 of the NPPF.
- 2 The application site falls within Flood Zone 3 and a Hazard Zone as defined in the Council-adopted Strategic Flood Risk Assessment and sequential and exception testing is therefore required. Sequentially there are no other sites located at a lower probability of flooding within the village of Wighenhall St. Mary the Virgin, which are readily available. In terms of the exception test it is considered that the development fails to meet part a); the development fails to provide wider sustainability benefits to the community which outweighs flood risk, due to the sites rural location.

The proposed development is therefore contrary to the overarching aims of the NPPF and in particular to section 10 of the NPPF and the supporting practice guidance.