

AGENDA ITEM NO: 8/3(h)

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| Parish: | Upwell | |
| Proposal: | Outline Application: Construction of three dwellings | |
| Location: | Land at Low Side Upwell Norfolk | |
| Applicant: | Mr R Gooch | |
| Case No: | 16/01476/O (Outline Application) | |
| Case Officer: | Mr K Wilkinson | Date for Determination: 18 October 2016 Extension of Time Expiry Date: 11 November 2016 |

Reason for Referral to Planning Committee – At the request of Councillor Mrs Vivienne Spikings

Case Summary

The application site (0.75Ha) comprises part of the substantial mature garden area associated with Lode House. It is bounded to the west by the Well Creek, north and east by Low Side, and south by Lode House plus additional dwellings onto Small Lode.

The site lies outside the defined village development area in the recently adopted Site Allocations & Development Management Policy Document and within the Upwell Conservation Area. There are group Tree Preservation Orders to both the riverside/west and Low Side frontages.

Permission is sought for the development of three 4 bedroomed houses with associated double garages.

The application has been called in for determination at the Planning Committee at the request of Cllr Mrs Vivienne Spikings.

Key Issues

Principle of development
Impact upon character and appearance of the conservation area
Impact upon trees
Highway issues
Other material considerations

Recommendation

REFUSE

THE APPLICATION

This application was originally submitted in outline format with all matters reserved for future consideration to meet the criteria for a 'free go' following an earlier application being refused. However, given that the site falls within the Conservation Area of the village and its sensitivity to new development, an Article 5(2) notice was served requesting means of access, scale, appearance, layout and landscaping to be submitted for consideration at this stage. This makes the application effectively a full application.

There are two dwelling types – principally L-shaped footprint with a gabled projecting element punctuating the front elevation. The only difference being the choice of facing materials. One is totally facing brick, whilst the other incorporates render panelling, all under a pantile roof. The double garages have pitched roofs with gables front and rear – all brick with pantile roofs. Eave heights are shown at 4.8m and ridges at 8.6m. The house types per se are not considered to be inappropriate.

The proposed layout shows the existing vehicular access onto Low Side used to serve three 4 bed detached houses with associated double garages, inward facing and grouped with rear gardens facing Low Side and the Well Creek.

The previous scheme (application ref: 15/01752/O) was for 4 units but one has simply been removed to negate the reason for refusal regarding overlooking implications on the adjoining Lode Cottage to the north.

SUPPORTING CASE

The agent offers the following comments in support of this application:

1. The application site has its own access to Low Side, and its development would be totally separate from the curtilage to Lode House.
2. The application site is large (about 1.7 acres) and is capable of being developed at a higher density (5/6 dwellings), subsequently reduced to 4 dwellings (to avoid affordable housing) and to subsequently to 3 dwellings to remove any impact upon an adjoining dwelling outside the site. Affordable housing is no longer required.
3. The site is well screened and there will be no overlooking upon adjoining dwellings.
4. The site was originally orchard and has subsequently been considerably landscaped. Whilst this character is therefore different from adjoining orchard land, the site has been improved over the years, but this should not militate against its development.
5. Neither the Conservation Officer nor the Local Plan Inspector has been on the site to assess any impact (in view of the fact that access to the site can only be made by the applicants) and therefore objections from the Conservation Officer and the Inspector must be treated with extreme caution. Members of the Committee when they visit the site clearly need to walk the site to appreciate the lack of impact upon adjoining properties.
6. The application's site layout indicates substantial additional landscaping, the retention of most of the existing trees and the advantages of the proposed low density layout of the site.

7. The application is supported by the Parish Council and originally by a sub-committee of the Planning Committee at the consultation stage of the SADMP. The site falls within the development framework and the lack of an allocation does not mean planning permission subject to detailed approval cannot be granted. The development of the application site will have no greater degree of impact than other sites in the vicinity which either have been built or are proposed to be built.

Relevant Planning History:

15/01752/O: Application Refused: 17/05/16 - Outline Application: residential development

04/01707/F: Application Permitted: 08/11/04 - Construction of detached double garage

2/01/0863/F: Application Withdrawn: 09/07/01 - Construction of 2 bungalows

2/03/0113/F: Application Permitted: 09/04/03 - Creation of vehicular access to Low Side

CONSULTATIONS:

Parish Council: SUPPORT

Local Highway Authority: NO OBJECTION subject to conditions relating to access formation, visibility splays and parking/turning areas

Environment Agency: OBJECTION as part of the site is prone to flooding (Flood Zone 3) and a site-specific FRA was not submitted.

District Emergency Planning Officer: NO OBJECTION subject to conditions relating to subscribing to Floodline and evacuation procedure.

IDB: No Comments received

CSNN: NO OBJECTION subject to conditions relating to surface and foul water and informative notes.

Environmental Quality: NO COMMENTS

Historic Environment Service: NO OBJECTION subject to conditions relating to archaeological investigations.

Historic England: OBJECTION - Historic England remains of the view that the development will cause harm to the conservation area and the setting of highly designated heritage assets in relation to paragraph 132 of the NPPF and will not enhance the conservation area in accordance with paragraphs 56 and 137. We would again recommend that the Council should weigh the public benefits of housing against the level of harm caused by the development in accordance with paragraph 134 of the NPPF.

Conservation Officer: OBJECTION – concur with views of Historic England.

Arboricultural Officer: NO OBJECTION subject to condition – development to accord with the arboricultural impact assessment and method statement.

Representations: ONE letter of **OBJECTION** raising the following grounds:

- Access on most dangerous bends in Low Side;
- Impact on trees in Conservation Area;
- Loss of open space in Conservation Area to dwellings; and
- Houses out of character in area mostly populated by bungalows.

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

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS12 - Environmental Assets

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PRE-SUBMISSION DOCUMENT

DM1 – Presumption in Favour of Sustainable Development

DM2 – Development Boundaries

DM15 – Environment, Design and Amenity

OTHER GUIDANCE

Upwell Parish Plans

Conservation Area Character Statement

PLANNING CONSIDERATIONS

The key issues in assessing this application are as follows:

Principle of development

Impact upon character and appearance of the conservation area

Impact upon trees

Highway issues

Other material considerations

Principle of development

The application site lies outside the defined village development in the recently adopted Site Allocations & Development Management Policies Document (SADMPD).

The site was submitted for consideration in the Site Specific Allocation Process (Site 82) and as an initial sifting was indicated as a potential option for housing by virtue of it lying within the formerly defined village development area (opposed to those sites lying outside the village) on the saved Local Plan map for Upwell. However it was excluded in the Draft Proposed Main Modifications Schedule and also in the recently adopted SADMPD.

The site therefore lies beyond the area designated for development and is classed as 'countryside' with associated protection policies applicable (Core Strategy Policy CS06) to protect its intrinsic character and beauty, diversity of landscapes, heritage and wildlife, and its natural resources to be enjoyed by all. The development of greenfield sites will be resisted unless essential for agricultural or forestry needs.

The proposal also fails to comply with Policies DM1 and DM2 of the SAPMPD which relate to sustainable development and development boundaries.

It will be noted from the History section above that this is the third occasion where planning permission has been sought to develop this site for residential purposes. There has been an earlier refusal and a withdrawal dating back to 2001.

Impact upon the character and appearance of the conservation area

As stated above, the site also lies within the designated Conservation Area of Upwell. This site comprises the extensive garden to Lode House and sits within the Upwell Conservation Area which is a designated heritage asset as defined by the National Planning Policy Framework (NPPF). The NPPF identifies protection and enhancement of the historic environment as an important element of sustainable development, and establishes a presumption in favour of sustainable development in the planning system (paragraphs 6, 7 and 14). It also states that the conservation of heritage assets is a core principle of the planning system (paragraph 17) and that the setting of a heritage asset is the surroundings in which an asset is experienced, and may therefore be more extensive than its curtilage.

Section 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 requires the LPA to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area when determining applications affecting buildings or land within the Conservation Area or its setting.

The Conservation Area Character Statement makes the following comments which have some relevance:-

"The conservation area contains the building line on each side of the river and its unique character comes from the range of attractive vistas which are provided as the river, and consequently the adjacent roads, twist subtly in a gentle arc. There are two "node" points provided by the two bridges. Historically the northern (and oldest) one is the most important as this area contains the church and inn – and also Lode House.

On this side of the river, the northern edge of the conservation area encompasses the important and dominant landscape buffer of Lode House, a modern residence. This building is located to the south of an 'island' site and has attractive mature landscape around virtually the whole of its perimeter. There are two attractive 'lodge' type buildings located in the south-east corner with interconnecting screen wall. Also, there is a small attractive outbuilding to the north."

The site occupied by Lode House is roughly triangular and the First Edition OS Map shows it being open and with buildings in approx. the same location as those which currently exist in the north, south-east and south-west corners. Aerial photographs show that it is still open in 1946 but Lode House has appeared by 1988.

In 2011 a pre-app for Residential development for 6 dwellings went to the Conservation Areas Advisory Panel who concluded that: "That no development should take place on the site as it is an important open space for the village and makes a positive contribution to the character of the Conservation Area".

The historic core of development within the conservation area has a long, linear pattern which has a consistent grain of slender sites facing the road/river. This distinctive grain and pattern of development makes a positive contribution to the character of the conservation area and development which does not follow this has the potential to erode the historic plan form and therefore have a negative impact on the heritage asset.

The site layout forms a cul-de-sac which is at odds with the more fragmented layout of the properties to the immediate south of the site and the historic linear pattern of development to the north of the river. The development proposed would create the introduction of 3 substantial 2 storey houses and associated garages on this site, with a roofscape which would be seen from public areas and would create a consolidation of the built form into an otherwise perceived open and verdant site and therefore cause harm to the significance of the conservation area.

Officers share the views of Historic England in that the development will cause harm to the conservation area and the setting of designated heritage assets in relation to paragraph 132 of the NPPF, and will not enhance the conservation area in accordance with paragraphs 56 and 137.

Impact upon trees

The trees, both within and adjoining the site are protected by virtue of falling within the conservation area and are also subjected to two group Tree Preservation Orders (2/TPO/00007 & 2/TPO/00239). The application is accompanied by an arboricultural implications assessment and arboricultural method statement. This identifies three mature trees (2 Red Oaks and a Tulip Tree) to be felled within the site, which as the report states could possibly be retained by a re-design of the layout.

Our Arboricultural Officer is however in agreement with this course of action subject to the development being undertaken in accordance with the recommendations of the report.

Highway issues

Access to the site is proposed using the existing access onto Low Side on the eastern side of the plot. County Highways indicate that the access is acceptable subject to certain conditions relating to the provision of access specification, visibility splays and parking plus turning areas to serve the dwellings. The access point should not also be gated or barriered to avoid parking on the carriageway.

Other material considerations

There are no significant crime and disorder issues raised by this proposed development.

The Environment Agency objects to the proposal on the basis that using their maps the site lies partially within Flood Zones 2 & 3, which requires a site-specific FRA. However the agreed protocol defers to the Council-adopted Strategic Flood Risk Assessment, which shows the site within Flood Zone 1 where dwellings are compatible uses.

The District Emergency Planning Officer suggests conditions relating to subscribing to Floodline and evacuation procedure, however these fail the tests applied to the use of conditions (in terms of being necessary and enforceability) and may be covered using an advisory note.

Surface water and foul water disposal are not defined on the application forms but may be covered via condition.

There are no contamination issues relating to this application.

The application is accompanied by a Unilateral Undertaking to secure the Habitat Mitigation Fee.

CONCLUSION

This is the third occasion where planning permission has been sought to develop this site for residential purposes. Its development with housing would be contrary to the provisions of the recently adopted SADMPD as the site lies outside the defined village development area.

Whilst the harm to the Conservation Area would be less than substantial, using the terminology in the NPPF, that harm would nonetheless be significant for the reasons given above. Paragraph 132 of the Framework states that great weight should be given to the conservation of heritage assets, and harm has been identified. The weight given to the harm, significantly and demonstrably outweighs the limited weight that could be given to the benefit of the proposal. Therefore in accordance with paragraph 134 of the NPPF, the Council considers that the public benefits of developing this housing would not outweigh the level of harm caused by the development. The development is therefore considered to cause harm to, and not enhance, the character of the Conservation Area.

The application is therefore duly recommended for refusal for the reasons stated below.

RECOMMENDATION:

REFUSE for the following reason(s):

- 1 The proposal comprises the development of an important undeveloped spacious and well-treed area, which contributes greatly to the character of the conservation area of Upwell, and is not contained within the development boundary in the planning policy for the village. The development would disturb the spatial relationship between existing buildings and their open and heavily treed settings, be of a scale, massing, layout and design that would cause harm to the conservation area and the setting of highly designated heritage assets, and will neither conserve nor enhance the conservation area. The Council considers that the public benefits of developing this housing would not outweigh the level of significant harm caused by the development. It therefore fails to accord with the provisions of the NPPF (paragraphs 17, 56, 132, 134 & 137), Core Strategy Policies CS06, CS08 & CS12 of the LDF and Policy DM2 of the SADMPD.

- 2 The site for the proposed development lies beyond the defined village development area for Upwell, where there is a general policy presumption against this type of development and it would have an adverse impact upon the character and appearance of the locality. The proposal in principle is therefore contrary to the provisions of the NPPF (paragraph 17), Core Strategy policies CS06 & CS08 of the Local Development Framework and policy DM2 of the Site Allocations & Development Management Policies Document.