

AGENDA ITEM NO: 8/1(I)

Parish:	Stoke Ferry	
Proposal:	Outline application for proposed residential development	
Location:	Plot SW of Marmic Wretton Fen Drove Wretton Norfolk	
Applicant:	M & M Norfolk Services Ltd	
Case No:	15/00950/O (Outline Application)	
Case Officer:	Mrs N Osler Tel: 01553 616402	Date for Determination: 12 August 2015 Extension of Time Expiry Date: 11 September 2015

Reason for Referral to Planning Committee – The application is made by a Councillor

Case Summary

Outline permission, with all matters reserved, is sought for the erection of a dwellinghouse following demolition of existing buildings on the site.

The site lies outside of the settlement boundary of Wretton (as defined by the Local Plan proposal maps) in land designated as countryside.

The buildings to be demolished form part of a wider mixed use site (in the same ownership as the application site) comprising B2 (car repair / sales), 'horsiculture' and the keeping of dogs. The buildings to be demolished have a B2 use (granted under application 2/88/4971/F which followed previous temporary consents (2/83/3106/F & 2/80/3084/F)).

Key Issues

Principle of Development
5-year Housing Land Supply
Flood Risk
Loss of Employment Land
Residential Amenity
Other Material Considerations

Recommendation

REFUSE

THE APPLICATION

The site is located along Wretton Fen Drove to the south of the defined settlement of Wretton in land designated as countryside, and forms part of a mixed use complex comprising Class B2 (car sales / repairs), 'horsiculture' and the keeping of dogs.

A residential dwelling lies to the immediate northeast of the site (Marmic) and another, in separate ownership, to the southwest (New House) beyond buildings in the applicant's ownership that are to be retained.

Outline permission, with all matters reserved, is sought for the erection of a dwellinghouse following demolition of existing buildings on the site.

SUPPORTING CASE

The application was accompanied by a Design and Access Statement, Flood Risk Assessment and Contamination Report.

The DAS suggests that:

- Stoke Ferry & Wretton are conjoined settlements as evidenced by the LPA's combined proposals map;
- The development would support and be supported by services in nearby Stoke Ferry and is thereby a sustainable location;
- One of the NPPF's core principles is to 'encourage the effective use of land by reusing land that has been previously developed (brownfield Land), provided that it is not of high environmental quality'. It is the applicant's view that the car repair workshop is unlikely to be classified as being of 'high environmental value';
- There is currently some doubt as to the availability within the borough of an identified, up-to-date and deliverable five year supply of housing land and therefore the policies pertinent to housing supply are considered to be out of date; and
- The development is an appropriate infill within an existing previously developed site.

The Flood Risk Assessment suggests that the development consists of a two-storey dwelling and that no sites within a 2km radius of the cut-off channel are outside of Flood Zone 3 and therefore the Sequential Test is passed.

The contamination report suggests that there is little potential for contamination.

PLANNING HISTORY

10/01673/F – Proposed erection of general storage building – approved

2/91/0784/O – Site for construction of dwelling – refused

2/89/1891/O – Site for construction of dwelling – refused

2/88/4971/F – Continued use of premises for motor vehicle repair and sales (permanent consent) – approved

2/87/3810/F – Construction of workshop for electrical repair business – refused

2/83/3106/F - Continued use of premises for motor vehicle repair and sales (temporary consent) – approved

2/80/3084/F - Continued use of premises for motor vehicle repair and sales (temporary consent) – approved

RESPONSE TO CONSULTATION

Parish Council: No Comments to make

Highways Authority: **NO OBJECTION** on highway safety grounds subject to condition

Internal Drainage Board: **NO OBJECTION** – see informative

Environmental Health & Housing – Environmental Quality: As the proposal involves demolition it is recommended that an asbestos condition be appended to any permission granted

Environment Agency: **NO OBJECTION** – see informative

Community Safety and Neighbourhood Nuisance: Have concerns in relation to disamenity from the existing business uses adjacent to the site. Whilst they do not object to the proposed development they do not support it either.

REPRESENTATIONS

None received at time of writing report.

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

CS10 - The Economy

CS11 - Transport

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

DM17 - Parking Provision in New Development

PLANNING CONSIDERATIONS

The main issues for consideration in the determination of this application are:

- Principle of Development
- 5-year Housing Land Supply
- Flood Risk;
- Loss of Employment Land
- Residential Amenity
- Other Material Considerations

Principle of Development

At the heart of the NPPF is a presumption in favour of sustainable development. The NPPF gives no succinct definition of sustainable development but states, at paragraph 6, that: 'The policies in paragraphs 18 to 219 [of the NPPF], taken as a whole, constitutes the Government's view of what sustainable development in England means in practice for the planning system'. It goes on to say that housing applications should be considered in the context of sustainable development.

Until recently the Core Strategy has taken a hard line in relation to new housing in the smaller villages and hamlets (of which Wretton is one) and followed a criteria based approach as set out in the NPPF in relation to isolated dwellings in the countryside i.e. meeting a need, re-use buildings or exceptional design.

However, national and local policy is changing with the NPPG (March 2014) and draft policy DM3 of the Site Allocations and Development Management Policies Pre-Submission Document (SA&DMP) suggesting that all settlements (including those with limited services and facilities) have a role to play in sustainable development in rural areas.

In May 2014 Planning Committee agreed that applications for new dwellings in smaller villages and hamlets should be considered on their own merits in accordance with the NPPG and draft Policy DM3, and a number of applications have since been approved.

Emerging policy DM3 states *'New housing in the smaller villages and hamlets will be limited to the provision of affordable housing under the rural exception policy and to the provision of housing essential for the operation of the rural economy.'*

The sensitive infilling of small gaps within an otherwise continuous built up frontage will be permitted where:

- The development is appropriate to the scale and character of the group of buildings and its surroundings; and*
- It will not fill a gap which provides a positive contribution to the streetscene.*

In exceptional circumstances the development of small groups will be appropriate where the development is of a particularly high quality and would provide significant benefits to the local community'.

For the following reasons it is not considered that the proposed development accords with this emerging policy: First, there is no gap. The proposal requires demolition of existing buildings (with a current employment use (the loss of an employment use is covered below)) to make space for a new dwelling. Second, two dwellings do not constitute a continuous built-up frontage but rather sporadic development. Third, it is not considered that a dwelling in this location would be in keeping with the essentially rural character of the locality. Furthermore, the site also lays outside of the previous settlement boundary as shown on the Local Plan Proposals Map 1998.

In summary, for the reasons outlined above, it is the view of officers that the proposed development does not accord with emerging policy DM3.

The proposal should now be considered against Core Strategy Policy CS06 which, in consistency with paragraph 55 of the NPPF, seeks to protect the character and beauty of the countryside and restrict new dwellings in the countryside unless there are special circumstances such as:

- The essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- Where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- Where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- The because of the exceptional quality or innovative nature of the design of the dwelling.

The proposal does not accord with any of these enabling criteria.

In this regard, whilst some time ago, the previous refusals / dismissal on an adjacent site are pertinent because they are essentially for the same (demolition of existing building(s) and replacement with one dwellinghouse). The only difference was that the site was adjacent to the southern dwelling (New House) rather than the northern dwelling (Marmic). The appeal decision (T/APP/V2635/A/91/192732/P8) is appended.

The appellant suggested that whilst in the countryside, the development would have built form on three sides and that the replacement of the building(s) with a dwelling would enhance the appearance of the locality. The Inspector however felt that the wider site (the two dwellings and a number of buildings associated with the applicant's business activities) were set within open agricultural countryside.

He concluded that that the proposal represented consolidation of the existing sporadic residential development in the area together with associated residential activity, and would be detrimental to the existing rural character of the area.

In summary, for the reasons outlined above, it is the view of officers that the proposed development does not accord with Core Strategy Policy CS06.

5-year Housing Land Supply

Notwithstanding the above, a recent High Court Ruling has found that the Local Planning Authority (LPA) cannot demonstrate a five-year supply of deliverable housing sites. In such circumstances housing supply policies should not be considered up-to-date (para. 49 NPPF). Paragraph 14 of the NPPF states: At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking...For decision-taking this means...where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless 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'.

Taking the above into account, the Inspector in the aforementioned appeal concluded that a new dwelling would be *'visually obtrusive, and would constitute an extension of residential development in a rural area outside the defined village development limits... [that would be] detrimental to the essential rural character of the area'*. However, in this regard your officers do not believe that a dwelling in this location, given its context, would be of significant and demonstrable harm to the character of the countryside.

However, the application site is removed from the settlement proper, and is only linked by Wretton Fen Drove (a narrow road which lacks footpaths and lighting). This route would not provide a safe or comfortable route either for pedestrians or for cyclists, particularly after dark or in inclement weather and prospective occupants of the house would have to rely on the use of the private car to satisfy their needs. As such the proposal is contrary to paragraph 32 of the NPPF which requires development to be safe and accessible for all people. On the basis of the above, the proposed development is not considered to fall within the concept of sustainable development contained within the NPPF.

Flood Risk

The footnote to paragraph 14 (of the NPPF) mentions specific policies in the Framework that indicate that development should be restricted. It gives some examples, one of which is flooding, but the list is not exhaustive.

The site is in an area at significant risk of flooding (Flood Zone 3 as shown on the Local Authority's Strategic Flood Risk Assessment Maps).

The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. The aim of the sequential test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available alternative sites appropriate for the proposed development in areas with lower probability of flooding.

The NPPF goes further and states that if, following application of the Sequential Test it is not possible, consistent with wider sustainability objectives, for the development to be located in zones of a lower probability of flooding the Exception Test can be applied if appropriate. For the Exception Test to be passed it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk and that a site specific FRA must demonstrate that the site is safe.

Contrary to the findings of the Flood Risk Assessment, the vast majority of Wretton is not at risk of flooding and the LPA believes there may be sites within the settlement of Wretton that are available and are not at risk of flooding. Notwithstanding this, it is the applicant / agent's responsibility to furnish the LPA with the information to undertake the sequential test – the FRA lacks any such information. As such it is concluded, from the limited information available to the LPA, and without any information to contradict this conclusion, that the development fails the sequential test. It could be argued that the dwelling could be located to the rear of the site – in flood zone 1. However, such a scenario would result in all the residential paraphernalia being to the front of the dwelling. Not only would this be obtrusive and of detriment to the character of the countryside, it would result in poor amenity to occupiers of the new dwelling.

Even if the development passed the sequential test, the Exception test must also be passed. For the Exception Test to be passed it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk and that a site specific FRA must demonstrate that the site is safe. It is not considered that the benefit of one market house would outweigh the risks associated with flooding. Therefore, notwithstanding the fact that the proposal could potentially be made technically safe the proposal fails the Exception Test.

As a result the development fails both the sequential and exception tests and is therefore considered to be contrary a specific policy in the NPPF that, regardless of the lack of a five-year housing supply, indicates development should be restricted.

Loss of Employment Land

Core Strategy policy CS10 states *'The Council will seek to retain land or premises currently or last used for employment purposes (including agricultural uses) unless it can be demonstrated that:*

- *Continued use of the site for employment purposes is no longer viable, taking in to account the site's characteristics, quality of buildings, and existing or potential market demand; or*
- *Use of the site for employment purposes gives rise to unacceptable environmental or accessibility problems particularly for sustainable modes of transport; or*
- *An alternative use or mix of uses offers greater potential benefits to the community in meeting local business and employment needs, or in delivering the Council's regeneration agenda'.*

No evidence or justification has been given for the loss of the employment use. The applicant did suggest (during the site visit) that the unit(s) to be demolished are currently only being used for hobby (rather than paid employment). However, this does not equate to justification.

On this particular issue the Government has made it clear that in certain instances the market should dictate whether the demand for housing outweighs the demand for certain business uses, and an evolving change of use regime is emerging. However, in this regard the proposal does not fall into any of these permitted changes (not only because they are not for conversion) but because B2 uses are not included.

Notwithstanding this, the proposal represents the loss of a small element of a wider rural employment site and it is therefore considered that the harm would not be sufficient enough to warrant refusal.

Whilst the Community Safety and Neighbourhood Nuisance Team have concerns relating to the proximity of the site to existing business uses, they have not objected to the development. In this regard, if considered acceptable, a condition could be appended to any permission granted tying the dwelling to the wider site. However, there is currently an existing un-associated dwellinghouse in the southwest corner of the wider site. A conversation with CSNN has confirmed that that no complaints have been received from occupiers of this dwelling in relation to the wider site. It is therefore unlikely that such a condition would be either necessary or reasonable and would therefore fail the conditions tests as laid out in the NPPG.

Impact on Residential Amenity

Although this cannot be fully assessed given the outline nature of the application, it is considered that any material overshadowing, overlooking or overbearing impacts could be designed out.

Crime and Disorder

There are no specific crime and disorder issues arising from the proposed development.

Other Material Considerations

It is considered that contamination, asbestos removal, drainage, parking provision and highway safety could all be suitably addressed by condition if permission was granted.

CONCLUSION

In summary, on the plus side, the proposal would represent the provision of an additional dwellinghouse on a brownfield site that would not be of significant or demonstrable harm to the intrinsic character of the countryside. However, the site is isolated and lacks accessibility, and, in relation to flood risk, fails both the sequential and exception tests. It is therefore concluded that, on balance, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF when taken as a whole and additionally to a specific policy in the Framework that indicates development should be restricted'.

RECOMMENDATION:

REFUSE for the following reason(s):

- 1 The proposed development is located within open countryside and does not accord with the enabling criteria of the NPPF in relation to new dwellings in such locations (e.g. essential for a rural worker). It would result in consolidation of existing sporadic residential development in a wider countryside setting that, together with associated residential activity, would be of detriment to the rural character of the area. The location of the development, that is connected to Wretton only by a narrow, unlit road with no footpaths, suggests that walking or cycling are likely to be impractical and that occupants of the proposed dwelling would be largely dependent on car borne travel. On this basis the proposal is not considered to fall within the concept of sustainable development contained within the NPPF. The proposal is therefore contrary to the NPPF in general and specifically to paragraphs 32 and 55 of the NPPF, Core Strategy Policies CS08, CS11 and CS12 and emerging Development Plan Policy DM1.
- 2 It has not been proven to the satisfaction of the Local Planning Authority (LPA) that the proposed development is in a sequentially preferable location. Further, whilst it may be possible to make the development safe, the development would not provide wider sustainability benefits to the community that would outweigh flood risk. As a result, the development fails both the sequential and exception tests and is therefore considered to be contrary to Chapter 10 of the NPPF and guidance contained within the NPPG and Core Strategy Policies CS01 and CS08.



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T/APP/V2635/A/91/192732/P8

Date

14 JAN 92

Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY M PEAKE ESQ
APPLICATION NO: 2/91/0784/0

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the decision of the Borough Council of King's Lynn and West Norfolk to refuse outline planning permission for a dwelling on land adjacent to Marmick Cottage, Wretton Fen Drove, Stoke Ferry. I have considered the written representations made by you and by the Council and also those made by the Stoke Ferry Parish Council and other parties including those made directly to the Council and forwarded to me. I inspected the site on 10 December 1991.
2. From the written representations and from my inspection of the appeal site and its surroundings I consider the main issue in this case is whether the proposed development would have an unacceptably detrimental affect on the appearance and character of the area having regard to policies within the approved Norfolk Structure Plan.
3. The approved (1988) Norfolk County Structure Plan includes policies which seek to preserve the rural appearance and character of the countryside. Of particular relevance to this appeal is Structure Plan Policy H8, which states that outside villages planning permission will not normally be given for new residential development unless connected with the essential needs of agriculture, forestry, tourist facilities, or existing institutions. No such special circumstances have been put forward in this case. Structure Plan Policies H5, H6 and H7 make provision for limited residential development within villages. It is against the background of these policies that the Council resists the proposal on the grounds that it represents unjustified development outside Wretton village limits.
4. You do not dispute that the appeal site is outside the village development envelope defined in the Wretton Village Guidelines (1986). You contend that because the appeal site lies outside the village's development envelope it is not necessarily within open countryside. You argue that as the appeal site is surrounded on three sides by buildings, the proposed dwelling would not be detrimental to the appearance of the area. You further suggest that demolition of the vacant buildings and clearance of the bushes, with construction of the



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proposed house, would improve and enhance the appearance of the locality.

5. On my inspection I saw that Marmick Cottage and one other dwelling, immediately to the south of the appeal site, are located on the eastern side of Fen Drove between the built-up limits of Wretton village and a major drainage channel. Between these two dwellings are a number of buildings in various states of repair, some in use as workshops and stores in connection with your client's business activities. The appeal site forms part of this area, which is in my view set within open agricultural countryside. In my opinion the proposal represents consolidation of the existing sporadic residential development in the area together with associated residential activity, detrimental to the existing rural character of the area and contrary to countryside protection policies in the approved Norfolk Structure Plan.

6. You have suggested that the appeal proposal would effectively improve security at the appellant's business premises. You have explained that conventional security measures are employed, but that break-ins still occur. I am not convinced from my inspection and the evidence before me that the proposed dwelling would prevent break-ins. I do not consider that any resulting improved security for the plant hire business serves to justify an exception to rural protection policies.

7. I have taken account of the suggested undertaking to restrict development on the appellant's total land holding in this area to any approval of the proposal before me. In my view this would not overcome the basic planning objection to the proposed dwelling, and although I consider that each development proposal should be considered on its own particular merits, I agree with the Council that approval would be likely to lead to applications for similar development in the district which the Council would then have difficulty in resisting.

8. You have drawn my attention to an appeal decision in East Cambridgeshire, of which you consider the circumstances to be very similar to this case. I note that the Inspector in that case made particular reference to the continuity of residential development alongside that appeal site, and his view that the appeal site is clearly within the envelope of existing and quite extensive development. The physical location of this appeal site in Fen Drove is not in my opinion comparable, where the proposed dwelling would be visually obtrusive, and would constitute an extension of residential development in a rural area, outside the defined village development limits, contrary to Structure Plan policies, and detrimental to the essential rural character of the area.

9. I have taken account of all other matters raised in the representations, but find none to be of such weight as to alter my conclusions on the main issue.

10. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

I am Sir
Your obedient Servant

Peter J. Baldwin

PETER J BALDWIN BSc FICE FIHT
Inspector