

## AGENDA ITEM NO: 8/2(j)

<b>Parish:</b>	Tilney All Saints	
<b>Proposal:</b>	Outline Application: Construction of 5 dwellings and associated external works.	
<b>Location:</b>	Land To the West of Medina Lynn Road Tilney All Saints Norfolk	
<b>Applicant:</b>	Mr & Mrs Goldsmith	
<b>Case No:</b>	17/00027/O (Outline Application)	
<b>Case Officer:</b>	Mrs N Osler	<b>Date for Determination:</b> 9 March 2017 <b>Extension of Time Expiry Date:</b> 12 May 2017

**Reason for Referral to Planning Committee** – The views of Tilney All Saints Parish Council is contrary to the Officer recommendation

### Case Summary

The application is in outline with all matters reserved for residential development on a site measuring approximately 0.26ha on the corner of School Road and Lynn Road, Tilney All Saints. The site represents the housing allocation in the Site Allocations and Development Management Policies DPD, 2016 (SADMP) and Policy G97.1 relates specifically to development of this allocation.

### Key Issues

Principle of Development  
Form and Character  
Highway Safety  
Neighbour Amenity  
Flood Risk  
Ecology  
Other Material Considerations

### Recommendation

**APPROVE**

## THE APPLICATION

The application is made for outline planning permission with all matters reserved for the erection of 5 dwellings on land at School Road and Lynn Road, Tilney All Saints.

The site is allocated within the Site Allocations and Development Management Policies DPD (SADMP) for residential development of at least 5 homes, and SADMP policy G97.1 relates specifically to development of this site.

The site lies in Flood Zone 2.

17/00027/O

Planning Committee  
8 May 2017

## SUPPORTING CASE

The application submission contained a brief planning statement and a site specific flood risk assessment. The Planning Statement states:

### Habitats Monitoring

Outline application of 2585m<sup>2</sup> site consisting of 5 proposed dwellings.  
Habitats monitoring fee required £50.00 x 5 = £250.00

### Affordable Housing Contribution

Outline application of 2585m<sup>2</sup> consisting of 5 proposed dwellings falls below dwelling number threshold (6) for affordable housing contribution.

Outline application floor area of plots (all approximate):

- Plot 1: 4 Bed Detached, Double Carport. Approx. GIA 125m<sup>2</sup>.
- Plot 2: 3 Bed Semi-Detached, Double Carport. Approx. GIA 118m<sup>2</sup>.
- Plot 3: 3 Bed Semi-Detached, Double Carport. Approx. GIA 110m<sup>2</sup>.
- Plot 4: 3 Bed Semi-Detached, Double Carport. Approx. GIA 110m<sup>2</sup>.
- Plot 5: 3 Bed Semi-Detached, Double Carport. Approx. GIA 118m<sup>2</sup>

Total floor area created approximately 581m<sup>2</sup>, falls below floor area threshold (1000m<sup>2</sup>) for affordable housing contribution.

### Flood Risk Assessment

A separate Flood Risk Assessment prepared by ESP accompanies the application.

## PLANNING HISTORY

99/1503/O - Site for construction of 2 dwellings - Refused

## RESPONSE TO CONSULTATION

**Tilney All Saints Parish Council:** At the Parish Council meeting held on 9th February 2017, councillors unanimously **OBJECTED** to the above application because of the drainage effect and flood risk to existing properties in School Road.

- There are ongoing drainage problems in that area of the village.
- There is no main sewage in the village as stated in the report.
- The height of the proposed dwellings would be above existing properties causing them to be overlooked with a loss of privacy and sunlight.
- There are also Highway issues with safety concerns regarding the access to the properties being so close to the junction of School Road and Lynn Road.

Existing residents already park on one side of School Road, as there is no off road parking, effectively making the top of School Road a single lane.

This route is also regularly used by significantly large agricultural vehicles and school buses.

The drainage and access issues with this site were raised by the Parish Council during the Local Plan consultation, and do not appear to have been addressed.

**Highways Authority: NO OBJECTION** subject to condition

**Kings Lynn Drainage Board: NO OBJECTION** subject to compliance with the board bylaws

**Environmental Health & Housing – Environmental Quality:** No Comments to make regarding contaminated land or air quality.

**Natural England:** No Comment

**Environment Agency: NO OBJECTION** subject to condition

## **REPRESENTATIONS**

**FIVE** letters of **OBJECTION** have been received in relation to scale and impact of the dwellings on residential amenity, land levels, drainage, access and highway safety.

## **NATIONAL GUIDANCE**

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

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

## **LDF CORE STRATEGY POLICIES**

**CS01** - Spatial Strategy

**CS02** - The Settlement Hierarchy

**CS08** - Sustainable Development

**CS09** - Housing Distribution

**CS11** - Transport

## **SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016**

**DM1** – Presumption in Favour of Sustainable Development

**DM2** – Development Boundaries

**DM15** – Environment, Design and Amenity

**DM17** - Parking Provision in New Development

## **DM21 - Sites in Areas of Flood Risk**

### **PLANNING CONSIDERATIONS**

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

- Principle of Development
- Form and Character
- Highway Safety
- Neighbour Amenity
- Flood Risk
- Ecology
- Other Material Considerations

#### **Principle of Development**

The site represents the housing allocation in the adopted SADMP, 2016. Policy G97.1 states: 'Land amounting to 0.25ha, as shown on the Policies Map, is allocated for residential development of at least 5 dwellings. Development will be subject to compliance with all of the following:

1. Submission of a Flood Risk Assessment (FRA) that should address all forms of flood risk (coastal inundation, fluvial, pluvial and groundwater). The FRA should explain how surface water drainage will be managed. The FRA must demonstrate how the development would provide wider sustainability benefits to the community that outweigh the risk associated with flooding and that the development would be safe for its lifetime without increasing flood risk elsewhere and, where possible, would reduce flood risk overall. The FRA should also suggest appropriate mitigation (flood resiliency measures);
2. Submission of details showing how sustainable drainage measures will be incorporated into the development to avoid discharge to the public surface water network, and also to the amenity and biodiversity of the development. A suitable plan for the future management and maintenance of the SUDS should be included with the submission;
3. Provision of affordable housing in line with the current standards.

In relation to this a suitable FRA has been submitted; drainage will be conditioned, and as long as the GIA is below 1000m<sup>2</sup> GIA then affordable housing is not required. This can be suitably conditioned.

It is therefore considered that the principle of development is acceptable.

#### **Form and Character**

The LPA would suggest that the indicative layout does not follow the characteristics of the locality and would suggest that when reserved matters are submitted the dwellings should be in linear format facing the road. However, this issue will be fully considered at the detailed stage. Additionally, due to the risks associated with flooding, the new dwellings would need to be at least 1.5 storeys in height to enable first floor sleeping accommodation. This can be suitably conditioned.

## **Highway Safety**

Access is also a reserved matter and will be dealt with at the detailed stage. County Highways do not object in principle to this development.

## **Neighbour Amenity**

Whilst layout, scale and appearance are reserved matters, it is considered that any material overlooking, overbearing or overshadowing impacts could be designed out, and will be dealt with at the detailed stage.

## **Flood Risk**

The site lies in an area at potential risk of flooding. Both national (the NPPF and NPPG) and local (the Development Plan) policy seeks to steer new development away from areas at risk of flooding by virtue of applying the sequential test.

However it is not necessary to undertake the sequential test on allocated sites (as it is considered that this occurred during the allocation process (NPPF paragraph 104)). Further, and in line with Development Plan Policy DM21, only the second element of the exception test is required (as it is likewise considered that the first element (wider sustainability benefits) is deemed to be met by the allocation process).

The second part of the exception test requires that 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.

The submitted Flood Risk Assessment has satisfied the Environment Agency (EA) that the development can be made safe and the EA has no objection (subject to conditions) in relation to the risks associated with flooding. Any permission will need to be conditioned to be carried out in accordance with the recommendations and mitigation suggested in the Revised Flood Risk Assessment that accompanied the application.

## **Ecology**

A Phase 1 Ecology Report has been submitted. The conclusions of this report are that a further survey for great crested newts (GCNs) is advised and that in relation to breeding birds that the majority of the boundary hedgerows (excluding the requirement for access points) is retained until the end of the breeding season. Both these elements can be suitably conditioned.

In relation to the potential for GCNs the European Habitats Directive (the Directive) prohibits activities such as the deliberate capturing, killing or disturbance of protected species, subject to derogation in specific and limited circumstances. These requirements are enforced in England and Wales by the Conservation of Habitats and Species Regulations 2010 (the Regulations) and any derogation is regulated and overseen by a system of licensing administered by Natural England (NE).

In exercising its functions, including determining planning applications, a Local Planning Authority (LPA) is required to have regard to the requirements of the Habitats Directive in so far as they may be affected by the exercise of those functions. It is not the role or responsibility of the LPA to monitor or enforce NE's obligations under the Regulations.

However, if a development proposal could potentially result in a breach of the Directive, the LPA is required to form a view on the likelihood of a licence being granted under the Regulations by NE in order to fulfil its own obligation to have regard to the Directive requirements.

NE will only grant a licence if satisfied that the three statutory tests prescribed under the Directive and the Regulations have all been met.

The tests are:

1. There are imperative reasons of overriding public interest (IROPI);
2. There are no satisfactory alternatives; and
3. It would not be detrimental to the maintenance of the population of the species at favourable conservation status.

It is understood that the level of detail required for a licence application to NE under the Regulations may not yet be available at the planning application stage. Also, the level of detail required for NE to satisfy the tests of derogation will usually be higher than that required in the planning consent process. However, the obligation on the LPA is to consider the likelihood of a licence being granted by NE, not to determine definitively whether or not the licence will, in fact, be granted. It therefore has to review the three tests, in the context of a planning application, to then form a view on the likelihood of NE granting a derogation licence under the Regulations.

In this case, a Phase 1 Ecology Survey concluded that the potential for impacts to local wildlife is almost negligible, with the possible exception being great crested newts (GCN), whose absence cannot be confirmed without further surveys.

The LPA can therefore conclude that there is the possibility that GCN are present and that if development were to proceed there is the possibility of a breach of the Directive. Therefore the LPA is required to consider the tests:

1. IROPI - NE's guidance advises that IROPI can potentially include developments that are required to meet or provide a contribution to meeting a specific need such as complying with planning policies and guidance at a national, regional and local level. The Local Plan shows a need for additional housing in the Borough over its fifteen year life (2011 - 2026).

Additionally, the site represents one of the housing allocations in the recently adopted Site Allocations and Development Management Policies DPD (SADMP)

2. No satisfactory alternatives – as mentioned above the site represents the allocation for housing development in Tilney All Saints.
3. Population maintenance - it appears to be unlikely that development of such a small parcel of land, with appropriate mitigation, will detrimentally impact the conservation status of GCNs.

The LPA can therefore reasonably form the view, from the information submitted to it for this planning application that NE would not be unlikely to grant a derogation licence under the Regulations in relation to this development and that planning permission should not be refused for this reason.

## **Other Material Considerations**

**Drainage** – Given the outline nature of the application there is limited information on drainage. This is quite normal for such applications and drainage / SuDS can be suitably conditioned if permission is granted.

**Crime and Disorder** - The proposal raises no specific issues in relation to crime and disorder. Due to the outline nature of the proposed development it is not possible to consider Secured by Design issues.

## **Parish Council and Third Party Representations**

All the issues raised by the Parish council and third parties have been covered in the main body of this report.

## **CONCLUSION**

The site is within one of the borough's Rural Villages where residential development of an appropriate scale will be supported. Additionally this site represents the housing allocation in the adopted SADMP.

The application is in outline form with all matters reserved for future consideration. Basically the principle of residential development of the site is being sought. The site represents the housing allocation in the adopted SADMP and no objections have been received from statutory consultees on technical grounds.

It is therefore considered the principle is acceptable and the application should be supported subject to the following conditions.

## **RECOMMENDATION:**

**APPROVE** subject to the imposition of the following condition(s):

- 1 Condition Approval of the details of the means of access, layout, scale, appearance and landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority before any development is commenced.
- 1 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted to the Local Planning Authority in writing and shall be carried out as approved.
- 2 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 3 Condition Application for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 3 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.

- 4 Condition The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the latest such matter to be approved.
- 4 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 5 Condition The development hereby permitted shall be carried out in accordance with the recommendations contained in the Flood Risk Assessment that accompanied the application (carried out by ESP).
- 5 Reason To reduce the risks associated with flooding in accordance with the NPPF, NPPG and Development Plan.
- 6 Condition The development hereby permitted shall comprise of residential units that are no lower than 1.5-storeys in height and no higher than 2 storeys in height.
- 6 Reason In the interests of the visual amenity of the locality and to reduce the risks associated with flooding in accordance with the NPPF, NPPG and Development Plan.
- 7 Condition There shall be no ground-floor sleeping accommodation.
- 7 Reason To reduce the risks associated with flooding in accordance with the NPPF, NPPG and Development Plan.
- 8 Condition The development hereby approved shall comprise of no more than 5 residential units.
- 8 Reason To define the terms of the permission.
- 9 Condition The Gross Internal Area of the development hereby permitted shall not exceed 1000m<sup>2</sup>.
- 9 Reason To define the terms of the permission in accordance with the national indicative thresholds as specified in the NPPG.
- 10 Condition No development shall commence until full details of the foul and surface water drainage arrangements for the site have been submitted to and approved in writing by the Local Planning Authority. The drainage details shall be constructed as approved before any part of the development hereby permitted is brought into use.
- 10 Reason To ensure that there is a satisfactory means of drainage in accordance with the NPPF.

This needs to be a pre-commencement condition as drainage is a fundamental issue that needs to be planned for and agreed at the start of the development.

- 11 Condition No development shall commence on site until full details of the land drainage arrangements for the site have been submitted to and approved in writing by the LPA. The drainage details shall be constructed as approved before any part of the development hereby permitted is brought into use.



- 11 Reason To ensure that there is a satisfactory means of drainage in accordance with the NPPF.

This needs to be a pre-commencement condition as drainage is a fundamental issue that needs to be planned for and agreed at the start of the development.

- 12 Condition Prior to the commencement of the development hereby permitted a survey to identify the extent of any Great Crested Newt populations on or adjacent to the development site shall be undertaken in accordance with a written survey proposal which shall have been submitted to and approved in writing by the Local Planning Authority prior to the survey taking place.

- 12 Reason To identify the extent of any Great Crested Newt populations in accordance with the NPPF and NPPG.

- 13 Condition The results of the survey required under Condition 12 above shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the development hereby permitted, including site clearance works. The results shall also provide for any mitigation / enhancement measures appropriate to the extent of any Great Crested Newt populations recorded in order to minimise the impact of the development upon the newts both during construction and upon completion. A timetable for the implementation/completion/maintenance of the mitigation / enhancement works shall also be submitted with the results. The mitigation/enhancement works shall be completed and maintained in accordance with the agreed details and timetable other than with the prior written approval of the Local Planning Authority or where a different mitigation scheme or timetable scheme is required under any Great Crested Newt license issued by Natural England.

- 13 Reason To ensure that the impact of the development upon protected species is minimised in accordance with the NPPF and NPPG.

- 14 Condition Other than in relation to Great Crested Newts that are covered under separate conditions, the development hereby permitted shall be carried out in accordance with the recommendations contained in the Ecology Report that accompanied the application (dated April 2017 undertaken by Wild Frontier Ecology).

- 14 Reason To ensure that the impact of the development upon protected species is minimised in accordance with the NPPF and NPPG.

- 15 Condition No dwelling hereby permitted shall be occupied until surface water drainage (to include SuDS) details have been submitted to and approved in writing by the local planning authority. The submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and

- iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The surface water drainage scheme shall be implemented as agreed prior to the occupation of any dwelling hereby permitted unless otherwise agreed in writing.

15 Reason To ensure that there is a satisfactory means of drainage in accordance with the NPPF.