

## AGENDA ITEM NO: 8/3 (h)

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| <b>Parish:</b>       | Tilney St Lawrence   |  |
| <b>Proposal:</b>     | Outline Application: Proposed residential development of 4 dwellings |  |
| <b>Location:</b>     | Land off School Road Tilney St Lawrence King's Lynn                  |  |
| <b>Applicant:</b>    | Mr J Gore  |  |
| <b>Case No:</b>      | 16/00640/O (Outline Application)                                     |  |
| <b>Case Officer:</b> | Clare Harpham  | <b>Date for Determination:</b><br>10 June 2016 |

**Reasons for Referral to Planning Committee** – The Parish Council support the proposed development which is contrary to the Officer recommendation.

### Case Summary

The proposed new dwellings would be located outside the development boundary and within an area designated as countryside and they have no justification with regard to housing need for rural workers. They also fail the exceptions test as the location outside the development boundary means there are no sustainability benefits to the proposal which would outweigh the flood risk. Consequently the proposal is contrary to Planning Policy.

### Key Issues

Principle of Development  
Form and Character  
Neighbour Amenity  
Highways Issues  
Flood Risk  
Other material considerations  
Crime and Disorder

### Recommendation

**REFUSE**

## THE APPLICATION

The application site is located to the western side of School Road, Tilney St Lawrence and is a rectangular shaped piece of land measuring 0.25hectares. The site is currently agricultural land which is rather unkempt with housing immediately to the north and two semi-detached dwellings to the south. On the eastern side of School Road are dwellings.

The site has an existing drain to the front of the site with an access point at the northern end. The application is for outline planning permission for a proposed residential development of four dwellings with access to be considered at this stage.

## SUPPORTING CASE

The application was not accompanied by a design and access statement.

## PLANNING HISTORY

No planning history

## RESPONSE TO CONSULTATION

**Parish Council: SUPPORT**, legitimate infill.

**Highways Authority: NO OBJECTION** to the principle of the development at this stage provided the access is widened and improved so that two cars can pass within it and it is linked to the existing footway provision which is located just a couple of metres to the side of the access. Conditions recommended.

**Environment Agency: NO OBJECTION** The proposal is within Flood Zone 3 of both the EA flood Maps and also the Borough Councils SFRA. The site also lies within an area covered by the EA Tidal Hazard Mapping which shows the site to flood to depths of 0.25m in a 1 in 200 year event. The Local Planning Authority must undertake a sequential test but with regard to the exceptions test the proposal would need to comply with the mitigation measures detailed in the submitted FRA and should be secured by a planning condition.

**Internal Drainage Board:** The site is within the Board's District and therefore Byelaws apply. The watercourse to the east (front) of the site across which access is gained is part of a Board-maintained watercourse known as School Road Drain. Byelaw 10 applies which prohibits any works being undertaken within 9 metres of the edge of a Board-maintained watercourse unless prior written consent is obtained from the Board. The true Brink will need to be determined and it should be noted that the notional drain extents shown on OS maps do not correspond with a watercourse's true width 'brink to brink'. This will need to be confirmed through site measurements to determine what parts of the development would be within nine metres of the drain edge.

Under the Board's Byelaws and section 23 of the Land Drainage Act 1991, any proposed piping or alteration of a watercourse, including changes to existing culverts or bridges, written prior consent must be granted by the Board before any works are undertaken. Failure to obtain the Board's prior approval would mean that they would be in breach of the Board's Byelaws and the Land Drainage Act which has a number of potential consequences.

Whilst the application is for outline consent only the Board would not approve the development layout as there would clearly be works within 9 metres to either side of School Road Drain. The Board's adopted Planning & Byelaw Policy says that the only works usually approved within 9 metres of a Board-maintained drain with a multi-dwelling residential development would be an access running perpendicular (or as close as practicable) to the watercourse. Although the nature of the surrounding developments and the size of the site may mean the Board is prepared to relax its normal stance more here (although this is not guaranteed), I still feel that only certain types of works would potentially be acceptable and it would undoubtedly have to be ensured that any driveway would allow the Board unobstructed access with machinery to undertake works to the drain from the site, as and when it wishes.

Depending upon the nature of the works the applicant/developer may have to enter into a legal agreement with the Board.

Other comments received regarding surface water drainage and increased discharge into a watercourse.

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

**Environmental Health & Housing - CSNN: NO OBJECTION**, subject to a condition regarding foul and surface water drainage.

**Emergency Planning:** Due to location in an area at risk of flooding it's recommended that they sign up to the EA FWD Service and prepare an Evacuation Plan.

**Housing Enabling Officer:** I have re-examined this case in light of the recent threshold changes.

A site of 5no. units or fewer, with a gross internal area of under 1000m<sup>2</sup> there is no affordable housing contribution required, if the GIA is not confirmed then any permission should be conditioned to a maximum of 1000m<sup>2</sup>. In the event that more than 5no. units are planned, or the gross internal floor area will exceed 1000m<sup>2</sup>

Then please re-consult the team and we will advise on the requirements.

## **REPRESENTATIONS**

### **THREE** letters of **OBJECTION**:

- Noise
- It's agricultural land.
- Now have an adequate supply of housing land
- Will overlook the garden
- Traffic concerns as narrow B Class road and near the school so parking issues
- Will spoil the view
- Headlights will shine into windows of houses opposite
- Would prefer bungalows

### **ONE** letter of **SUPPORT**:

- Will clear the site which has rubbish dumped on it and rats
- Will stop the threat of travellers moving onto the site as there is good access
- Will feel safer with neighbours

## **NATIONAL GUIDANCE**

**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**

**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**

**DM2** – Development Boundaries

**DM6** - Housing Needs of Rural Workers

**DM15** – Environment, Design and Amenity

**DM17** - Parking Provision in New Development

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

## **OTHER GUIDANCE**

Tilney St Lawrence Parish Plans

## **PLANNING CONSIDERATIONS**

The main issues to consider when determining this application are as follows:

- Principle of Development
- Form and Character
- Neighbour Amenity
- Highways Issues
- Flood Risk
- Other material considerations
- Crime and Disorder

### **Principle of Development**

The application site is located outside of the defined development boundary of Tilney St Lawrence and therefore within the countryside as defined by the King's Lynn and West Norfolk Local Plan 1998. The site would also be outside the development boundary within the emerging Site Allocations and Development Management Policies Pre-Submission Document.

Whilst planning policy has a presumption in favour of sustainable development, the proposal needs to accord with the three dimensions which underpin such development, i.e. economic, social and environmental aspects which are mutually dependent.

One of the core principles of the NPPF is that the intrinsic character and beauty of the countryside should be recognised. Policy CS01 and CS06 of the King's Lynn Core Strategy (2011) reiterates that beyond the villages and in the countryside, the strategy will be to protect the countryside for its intrinsic character and beauty and Policy CS06 goes on to state that development of greenfield sites will be resisted unless essential for agricultural or forestry needs. No justification relating to housing need for a rural worker has been submitted and therefore the proposal is simply for four unrestricted dwellings in the countryside. The proposal would harm the rural character of the area and be contrary to policies to protect the countryside. Consequently the proposal is contrary to the provisions of the NPPF and Policies CS01 and CS06 of the King's Lynn and West Norfolk Core Strategy (2011).

In addition, given the sites location outside of the development boundary and the fact that there is no justification for the proposal with regard to an essential housing need for a rural worker the proposal also fails to accord with emerging Policies DM2 and DM6 of the Site Allocations and Development Management Policies Pre-Submission Document.

### **Form and Character**

School Road is characterised by linear development fronting onto the road and there are a mix of single and two storey dwellings as well as detached, semi-detached and terraced properties. The proposal is for outline only and layout is not considered at this stage, however the indicative layout demonstrates that a form of linear development could be achieved which would be in character with the locality.

However it should be noted that comments from the IDB have stated that the layout as indicated would require written consent from the Board as there are works within 9 metres of the Board maintained drain as well as works which would alter the existing access point which crosses the drain. They have also stated that the current indicative layout is unlikely to be approved.

### **Neighbour Amenity**

The proposal is for outline planning permission so the detail of the dwellings is unknown at this stage but it would be possible to design dwellings which would not materially impact upon neighbour amenity.

There has been an objection relating to car headlights shining in the windows of the dwellings opposite but the situation is not any different from any other form of development where there would be houses on both sides of the road.

### **Highways Issues**

There have been objections to the proposal relating to the parking issues experienced along School Road due to the school and also the narrowness of the road. There are however no objections to the proposal from the Highways officer provided the existing access is widened to allow two cars to pass and it is linked to the existing footway provision which is located a couple of metres from the access point (north).

### **Flood Risk**

The application site is within Flood Zone 3 of the King's Lynn and West Norfolk SFRA and within a Tidal Hazard Zone. There are no objections from the Environment Agency to the proposal based upon the submitted FRA, provided conditions are in place to secure the finished floor levels and flood resilience measures.

Whilst the EA have no objection, the LPA still need to apply the sequential and exceptions test. The aim of the sequential test aims to steer new development to areas with the lowest probability of flooding. Within the village there are sites at a lesser risk of flooding.

The Flood Risk Assessment submitted with the application states that the application is exempt from the Sequential Test as it's within the village of Tilney St Lawrence. The application site is not within the development boundary and even if it was it does not mean it is exempt from the Sequential or exceptions test. As stated within paragraph 104 of the NPPF only sites which have been allocated in development plans through the sequential test do not need sequentially testing in an individual application. This is not the case here. There are areas within the village of Tilney St Lawrence which are within Flood Zones 1 and 2 and therefore at a lower risk of flooding.

The current proposal is for four dwellings and therefore sites which could accommodate four dwellings have been considered when applying the Sequential Test.

There are no sites identified within the Residential Land Availability by Parish (March 2016) nor within the Housing and Economic Land Availability Assessment within Tilney All Saints. The sequential test is therefore passed as there is no comparable land available at a lower risk of flooding.

As the proposal is in flood zone 3 then the exceptions test needs to be passed as well as the exceptions test. The Environment Agency are satisfied that the site specific flood risk assessment demonstrates that the development will be safe for its lifetime provided the mitigation measures within the FRA are secured by condition. However the proposal is within the Countryside and therefore the benefits of approving four dwellings in this location do not outweigh the flood risk and consequently the proposal fails the Exceptions Test.

### **Other material considerations**

There are objections to the proposal most of which are addressed within the report above. There is also an objection that the proposal will spoil their view; however there is no right to a private view and this would not be a reason to refuse an application.

### **Crime and Disorder**

There are no issues arising from this application with regard to crime and disorder.

## **CONCLUSION**

The proposed new dwellings would be located within the countryside and have no justification with regard to housing need for rural workers. They also fail the exceptions test as the location outside the development boundary means there are no sustainability benefits to the proposal which would outweigh the flood risk. Consequently the proposal is contrary to the National Planning Policy Framework, Policies CS01, CS06 and CS08 of the King's Lynn and West Norfolk Adopted Core Strategy 2011 and Policies DM2, DM6, DM15 and DM21 of the emerging Site Allocations and Development Management Policies Pre-Submission Document.

In light of National Guidance, Development Plan Policies and other material considerations Planning Permission for the development as proposed should be refused.

**RECOMMENDATION:**

**REFUSE** for the following reason(s):

- 1 Planning policy states that the countryside should be protected beyond the villages for its intrinsic character and beauty and that development will be resisted unless essential for agricultural or forestry needs. The proposed new dwellings are located outside of the settlement boundary with no justification and are therefore contrary to the provisions of the NPPF, Policies CS01 and CS06 of the King's Lynn and West Norfolk Core Strategy 2011 and do not accord with Policies DM2, DM6 and DM15 of the emerging Site Allocations and Development Management Policies Pre-Submissions Document (2014).
- 2 The application site falls within Flood Zone 3 as defined in the Council-adopted Strategic Flood Risk Assessment and passes the sequential test; therefore the exceptions test is required. The proposal does not represent development where the sustainability benefits outweigh the flood risk. The proposed development is therefore contrary to para. 102 of the NPPF, Policy CS08 of the King's Lynn and West Norfolk Core Strategy 2011 and Policy DM21 of the Site Allocations and Development Management Policies Document.