

BRECKLAND COUNCIL

PLANNING COMMITTEE - 21 SEPTEMBER 2015

REPORT OF THE EXECUTIVE DIRECTOR PLACE

(Author: Gary Hancox, Principal Planner)

ATTLEBOROUGH: Land north of Norwich Road - Residential development of up to 350 dwellings, associated access, footpaths, cycle path, open space and landscaping

Applicant: Gladedale Estates

Reference: 3PL/2013/1161/O

URGENT BUSINESS

FURTHER REPORT TO MEMBERS FOLLOWING REFUSAL OF PERMISSION AND THE LODGING OF AN APPEAL

1. This application was refused by members at the Planning Committee of the 16th March 2015 following their resolution to overturn the recommendation of approval by officers. The reason for refusing the application was on the grounds that the drainage issues had not been adequately resolved and the proposal was not sustainable in its current form.
2. Consequently, the decision notice dated the 31st March 2015 contains the following sole reason for refusal:

The application site is located in an area of poor drainage, partly within Flood Zones 2 and 3, and close to several watercourses. The proposal has failed to adequately demonstrate that the proposed drainage system and realignment of the flood zones to accommodate the proposed development is achievable and would not result in flooding to people, property or places, both on and off site. The site is considered to be sensitive to additional flood risk given its close proximity to the main Attleborough watercourse, and no exceedance flood management information has been submitted. The Council can not be certain that the proposed development of the site would be appropriately flood resilient and resistant and that any residual risk could be safely managed. Accordingly it is not considered that the development is sustainable in its current form as required by the NPPF. The application is therefore contrary to Core Strategy Policy DC13 and paragraphs 7 and 103 of the NPPF.

3. In the absence of an objection to the planning application from the Environment Agency, the Council's decision to refuse the application gave significant weight to the concerns expressed by East Harling Internal Drainage Board (IDB). These concerns related to the lack of information in respect of the details of adoption and ownership of the surface water management scheme; levels of the surface water attenuation facilities with regards to local surface and groundwater levels, and; exceedance flood management (relating to the management of surface

water runoff associated with a storm event in excess of the maximum design storm).

4. Following this decision the applicant has engaged with the IDB to agree the extent of additional information required to address the reason for refusal. An additional package of information was submitted to the IDB, which included the following:
 - Confirmation that a private management company (funded by an annual fee from each dwelling) will secure the long term maintenance of the surface water management scheme;
 - Further information on the outline surface water management strategy including the locations of roadside swales, their points of entry to the attenuation facilities and typical cross sections, long sections through the attenuation and on-site watercourses to which they will discharge and overspill areas for the basins; and
 - MicroDrainage results showing that the system has sufficient freeboard to manage a 6 hour duration 1 in 200 annual probability storm plus 30 % climate change allowance.
5. On the 10th September the IDB confirmed in writing that, following the submission of the above information, it was satisfied that a surface water drainage scheme could be provided that would not increase flood risk for up to the 100 year + climate change, would restrict runoff to the one year Greenfield runoff rate, and would manage exceedance flows.
6. The IDB also notes that the drainage and other development infrastructure will be privately owned and maintained. Whilst the IDB would prefer the drainage system to be adopted by an appropriate statutory organisation, it is appreciated that at this time no organisation (Anglian Water or Norfolk County Council) is prepared to adopt the form of drainage proposed. As a result the drainage system will be owned by a private company of which the house owners will be shareholders, and the maintenance will be contracted to a recognised facilities management company.
7. Consequently, the IDB has removed their objection to the planning application.

THE APPEAL

8. On the 20th August 2015 the applicant lodged an appeal against the refusal of permission 3PL/2013/1161/O. The appeal is due to be heard at a hearing on 5th November 2015.
9. As part of the appeal process, the appellant has submitted a draft Statement of Common Ground (SoCG), the purpose of which is to set out matters of fact and matters which are not in dispute with the Council. The SoCG is attached as appendix 1. This SoSG includes the conclusions of the IDB in respect of drainage and confirmation of the removal of their objection. It is also noted that the Environment Agency raised no objection the application. Subject to conditions requiring the submission and approval of detailed drainage details, the proposal

now complies with the NPPF and Core Strategy Policy DC13. With the submission of additional information and the removal of the IDB objection, it is considered that the appellant has now satisfactorily addressed the reason for refusal and that there is no longer any technical basis on which to reject the proposal.

10. In these circumstances it is considered that continuing to pursue the current ground of refusal at appeal would place the Council at significant risk of an award of costs. The Government's Planning Practice Guidance states that local planning authorities will be at risk of costs awards where they seek to unreasonably defend an appeal. Examples given of unreasonable behaviour include failing to produce evidence to substantiate each reason for refusal on appeal and refusing permission on grounds that are capable of being overcome by planning conditions. Not agreeing to a statement of common ground in a timely manner can also rise to a costs award on procedural grounds.
11. It is recommended therefore that the Council formally withdraws its ground for refusal, subject to the imposition of conditions relating to drainage, as outlined above, and to a range of other conditions and a section 106 agreement as set out in the previous committee recommendation (see attached). All other matters included in the draft SoCG are considered to be acceptable.

RECOMMENDATION

12. That Members agree the content of the SoCG and formally withdraw the current ground of refusal.