

BRECKLAND COUNCIL

PLANNING COMMITTEE - 19 OCTOBER 2015

REPORT OF THE EXECUTIVE DIRECTOR PLACE

(Author: Gary Hancox, Principal Planner)

WATTON: Land west of Saham Road - Residential Development of 73 dwellings

Applicant: Hopkins Homes

Reference: 3PL/2015/0219/F

URGENT BUSINESS

FURTHER REPORT TO MEMBERS FOLLOWING REFUSAL OF PERMISSION AND NOTICE OF A PENDING APPEAL

1. This application was refused by Members at the Planning Committee of the 22nd June 2015 following their resolution to overturn the recommendation of approval by officers. The reasons for refusing the application were on the grounds of density and impact on landscape character and appearance, overlooking, and drainage.
2. Consequently, the decision notice dated the 23rd July 2015 contains the following reasons for refusal:
 - I. *This site is located in a prominent edge of town location where a sensitive transition of built form to open countryside is required. The level and density of development proposed is not considered to be reflective of its context, is likely to create a hard settlement edge, and would not enhance the character and appearance of an area, but would have a significant and harmful impact on the setting of the town. It has not been satisfactorily demonstrated that a development of 73 dwellings can be accommodated successfully on the site without harming the landscape character and appearance of the area; the application is therefore contrary to the NPPF and Core Strategy Policy CP11.*
 - II. *By virtue of their two-storey scale and first floor rear facing windows, and minimal separation distances to the adjoining existing properties of between 12 and 15 metres, the proposed dwellings on the south boundary of the site would cause an unacceptable level of overlooking and harm to the amenities of the neighbouring dwellings. This would be contrary to Core Strategy Policy DC01.*
 - III. *Without a satisfactory foul drainage strategy in place, the development will lead to an unacceptable risk of flooding downstream. Mitigation will be required to increase the ability of the network to deal with the foul water flows from the development, and without a detail strategy in place it is not known if a satisfactory drainage can be achieved for the site. It is not considered that this issue can be dealt with in condition. The application is therefore contrary to Core Strategy Policy DC13.*
 - IV. *It is acknowledged that the site is located in a sustainable location, within walking distance of schools and a wide range of local services. The pedestrian, cycle and vehicular traffic likely to arise from the scheme can be accommodated on the local highway network without a significantly harmful impact. The development will also*

provide a significant number of new dwellings that will contribute towards the Council's five-year housing land supply, provide affordable dwellings and contribute towards the local economy. However, the NPPF makes it clear in Paragraph 8 that the three roles the planning system is required to perform in respect of sustainable development should not be taken in isolation because they are mutually dependant. For the above reasons, it is concluded that the benefits of the housing provision proposed, taking into account the development plan and the policies of the NPPF as a whole, are clearly outweighed by the significant harmful impacts of the development. The application does not represent sustainable development and the principle of development is therefore not accepted.

3. In the absence of an objection to the planning application from Anglian Water (AW), in deciding to refuse the application on drainage grounds, the Council gave significant weight to the submitted comments of AW, which stated that without an agreed drainage strategy in place, the development could lead to flooding downstream of the site. Although AW further commented at the time that this matter could be dealt with by way of an appropriately worded condition, Members felt that this information should be submitted before determination.
4. In a letter dated 3rd September 2015, DLA Piper, acting on behalf of Hopkins Homes, gave notice of their intention to lodge an appeal against the above decision. The letter is attached as appendix 1. The letter highlights the fact that although no agreed drainage strategy was in place, the Statutory Consultee considered that an appropriate condition would be sufficient to secure such a drainage scheme. They therefore feel that this reason for refusal is unnecessary and unjustified and should be withdrawn.
5. Although not technically a 'Statutory Consultee, Anglian Water is a 'Statutory Undertaker' and as such provides appropriate technical guidance in respect of foul drainage matters. Their advice and comments are given significant weight by officers, and ultimately Planning Inspectors in the consideration of planning applications and appeals.
6. Notwithstanding the views of Anglian Water, the drainage proposals put forward in the application have subsequently been considered by independent drainage consultants on behalf of Breckland Council and they have concluded that the submission of foul water drainage details can be adequately dealt with by way of a suitable condition. The applicant has a right of connection to the foul sewerage system (S106: Water Industry Act) and hence there is a liability on Anglian Water to provide sewer and treatment capacity.

THE PENDING APPEAL

7. In these circumstances it is considered that continuing to pursue the current foul drainage 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 which are capable of being overcome by planning conditions.
8. It is recommended therefore that the Council formally withdraws its drainage 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). The remaining reasons for

refusal are considered to be acceptable and would be defended at any subsequent appeal.

RECOMMENDATION

9. That Members formally withdraw the current drainage ground of refusal should their decision be appealed.