

ITEM:		RECOMMENDATION: REFUSAL
REF NO:	3PL/2019/0065/VAR	CASE OFFICER Mark Simmonds
LOCATION:	BEESTON Land at Syers Lane Beeston	APPNTYPE: Variation of Cond's POLICY: Out Settlemnt Bndry ALLOCATION: N CONS AREA: N LB GRADE: N TPO: N
APPLICANT:	Rural Land Associates c/o Agent	
AGENT:	Icon Consulting Hethel Engineering Centre Chapman Way	
PROPOSAL:	Variation of Nos 8,9 on 3PL/2017/0702/O for the Erection of two detached dwellings	

REASON FOR COMMITTEE CONSIDERATION

The Outline application was originally determined at Committee and there are issues that warrant Committee consideration.

KEY ISSUES

The acceptability of the variation of conditions (8) and (9) relating to application 3PL/2017/0702/O.

DESCRIPTION OF DEVELOPMENT

This application seeks to vary conditions (8) and (9) which relate to landscaping. The Outline application which this relates to this is for the erection of two detached dwellings.

SITE AND LOCATION

The application site relates to a 0.35 hectare site. It is roughly rectangular in shape measuring approximately 70m by 51m. The site is bounded by residential properties and agricultural/open fields. The site itself is bounded by mature trees and hedging at varying heights.

EIA REQUIRED

Not required.

RELEVANT SITE HISTORY

- 3PL/2018/1205/D: Reserved Matters application relating to the below permission - Withdrawn 06/01/2019
- 3PL/2017/0702/O: Erection of two detached dwellings - Permission granted 25/10/2017

- 3PL/2016/1385/O: Erection of four detached dwellings - refused

- 3PL/2003/0250/O: Erection of two dwellings - refused 2003

POLICY CONSIDERATIONS

The following policies of the adopted Breckland Core Strategy and Development Control Policies and the adopted Site Specific Policies and Proposals Document, including the Proposals Maps, have been taken into consideration in the determination of this application. The provisions of the National Planning Policy Framework and National Planning Policy Guidance have also been taken into account, where appropriate

CP.10	Natural Environment
CP.11	Protection and Enhancement of the Landscape
CP.13	Accessibility
DC.12	Trees and Landscape
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

OBLIGATIONS/CIL

Not applicable.

CONSULTATIONS

CONTAMINATED LAND OFFICER

No comments.

NORFOLK COUNTY COUNCIL HIGHWAYS

You will be aware that I have advised the ditch works submitted as part of this proposal have not been approved by the Lead Local Flood Authority and consequently there is no guarantee they can be implemented. On that basis, provided the applicant is made aware that the submitted ditch works will require separate approval and that all previous conditions are re-imposed, this Authority would not raise any objections to the variation of Conditions 8 and 9.

TREE AND COUNTRYSIDE CONSULTANT

I would consider that the loss of trees and hedging along the site frontage, abutting Syers lane would be harmful to the setting and detrimental to the rural nature of the lane.

ECOLOGICAL AND BIODIVERSITY CONSULTANT No Comments Received

REPRESENTATIONS

A Site Notice was displayed on 21st February 2019, advertised in the EDP and seven neighbours directly

notified.

Two neighbour representations have been received - both objecting, their comments are below.

- In the initial planning meeting regarding this application, the residents of Syers Lane vigorously objected to the proposed removal of this hedgerow in order to make way for the suggested road widening to accommodate two new houses. The residents presented to the councillors evidence of the historical and ecological importance of this hedgerow by quoting the Tree Consultant Hugh Coggles' findings, reported on 08.08.17:

"My only concern relates to the hedge along the site frontage of Syers Lane. The hedge is certainly over 20 metres long and older than 30 years. The mix of species and associated features may well mean that the hedge would be recognised as being important under the 1997 hedgerow regulations. The presumption is in favour of protecting and retaining important hedgerows."

The importance of this old hedgerow, which is abundant in wildlife, flora and fauna still stands, and so do the objections of Syers Lane's residents to its proposed destruction.

- I wish to object to the proposed removal of the hedge and widening of Syers Lane that is proposed in this application. This is the last rural country Lane in Beeston, and is highly valued by Beeston residents . Any widening of Syers Lane will lead to the eventual widening of the whole of Syers Lane, and the country Lane will disappear as it will become another residential street. Please see attached the photograph of Sweet Violets that are currently in bloom on the bank. If the Lane is widened this beautiful display of wild flowers will be destroyed. Has the bank been surveyed to determine what other wild flower species are there? The residents of Syers Lane are very strong in their belief that Syers Lane should be preserved as a country lane, and their views should take preference over people outside the village who want to make money. The residents have the support of our County Councillor Elizabeth Gould, who has written to you separately on this issue.

The Ward Representative, Elizabeth Gould, objects to the proposals and commented as follows:

- This is an ancient narrow leafy lane and should be preserved where ever possible. Lanes like these are getting fewer and fewer and a recent application on The street in Beeston was refused due to impact on the hedge. Please stop the destruction of these lane which help create the character of Norfolk's rural villages.

ASSESSMENT NOTES

1.0 In deciding an application under section 73, the Council may only consider the question of the conditions subject to which planning permission should be granted. A complete re-consideration of the proposal cannot be undertaken.

2.0 This application seeks to vary two conditions which were attached to the Outline permission. A reserved matters application has recently been withdrawn following this councils advice that due to the conflict between the need to provide 4.8m road width and to retain the hedge, which were both shown on the Outline Plans as achievable and conditioned accordingly, but which appears to not actually be possible, the only way forward was to submit a Section 73 application as a way of 'regularising' the issued Outline Consent reference 3PL/2017/0702/O.

2.1 Condition 8 stated that:

"No development whatsoever shall take place until the plans and descriptions giving details of the reserved matters referred to above shall have been submitted to and approved by the Local Planning Authority and these plans and descriptions shall provide for a landscaping and tree planting scheme, which shall take account of any existing trees or hedges on the site. Landscape plans for the development should include native species of local provenance and preferably berry/fruit bearing trees and shrubs. The landscaping and tree planting shall be carried out in accordance with the scheme as approved during the planting season of the November/March immediately following the commencement of the development, or within such longer period as may be agreed in writing, with the Local Planning Authority, and in accordance with the Council's leaflet "Tree pack" (Landscaping advice for applicants).

Any trees or plants which within a period of 5 (five) years from the completion of the landscaping scheme die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with others of the same size and species unless the Local Planning Authority gives written consent to any variation."

2.2 Condition 9 stated that:

"The trees, hedgerows and scrub/tall ruderal borders have biodiversity value and should be retained and protected from development impacts. No development shall take place until details of the no-dig design, positioning and extents together with an arboricultural method statement and tree protection plan has been submitted to and approved in writing. The development shall be undertaken in accordance with the approved details."

2.3 Policy DC12 seeks to preserve the District's trees, hedgerows and other natural features and secure appropriate landscaping schemes to mitigate the impact of, and complement, new development.

2.4 The Tree and Countryside Consultant has previously advised that there was concern relating to the hedge along the site's frontage of Syers Lane. The hedge is over 20 metres long and older than 30 years. The mix of species and associated features may well mean that the hedge would be recognised as being important under the 1997 Hedgerow Regulations. There is a presumption in favour of protecting and retaining important hedgerows. It was advised that it was not clear if the hedge could be retained whilst achieving the required highways visibility and/or road widening.

2.5 The Tree and Countryside Consultant has been consulted on this application to vary these conditions and advises that the loss of trees and hedging along the site frontage, abutting Syers lane would be harmful to the wider setting and detrimental to the rural nature of the lane.

2.6 Therefore, the proposals conflict with Policy DC12 which seeks to protect the District's trees, hedgerows and other natural features, in addition, the hedge is recognised as being important under the 1997 Hedgerow Regulations and the presumption is in favour of protecting and retaining these important hedgerows.

3.0 Highways Impact

3.0 The NPPF requires new developments to provide safe and suitable access to the site for all people. Policy CP4 seeks to ensure that all access and safety concerns are resolved in new developments.

3.1 The Highways officer has been consulted and advises that the ditch works submitted as part of this proposal have not been approved by the Lead Local Flood Authority and consequently there is no guarantee they can be implemented. On that basis, provided the applicant is made aware that the submitted ditch works

will require separate approval and that all previous conditions are re-imposed, this Authority would not raise any objections to the variation of Conditions 8 and 9.

3.2 Therefore, subject to the proposals being approved by the Lead Local Flood Authority, the proposals would comply with Policy CP4.

4.0 Ecology

4.1 Policy CP10 seeks to protect the natural environment including protected species and Policy CP11 seeks the protection and enhancement of the landscape for the sake of its intrinsic beauty and benefit to the rural character. Development should have particular regard to maintaining the aesthetic and biodiversity qualities of natural and man-made features within the landscape, including consideration of individual or groups of natural and man-made features such as trees, hedges and woodland or rivers, streams or other topographical features.

4.2 The Natural Environment Team have been consulted and advise that The Ecological Surveys Report (BiOME Consulting; April 2017) submitted in support of the outline application states 'following discussions with the client, at this stage it has been decided that no felling/pruning works will be undertaken as part of the proposed works. Should this change, the standing advice detailed below will stand. If these trees are now proposed for removal further surveys will be required prior to the planning application being determined. 'The few mature and semi-mature trees in the bordering hedgerows have the potential to support roosting bats. Should any felling/pruning of these trees be required then further bat survey works will be necessary to establish whether bats use any of these trees for roosting.'

4.3 However, from publicly available aerial sources the trees do not appear to be of a size and age usually associated with features used by roosting bats and no further survey is therefore considered necessary. It will be necessary to compensate for the loss of this section of hedgerow by in-filling gaps and additional planting as shown on the site plans.

4.4 As a result, it is considered that the proposal complies with Policy CP10 and the NPPF.

5.0 National Planning Policy Framework (NPPF 2019)

5.1 Since March 2018, when planning permission was originally granted for this site, despite the Core Strategy remaining unchanged, the primary development plan document for determining planning applications, the revised NPPF (2018 and 2019) has been adopted. In accordance with the Planning Act and paragraph 47 of the NPPF (2019), decisions must be made in accordance with the adopted development plan, unless material planning considerations indicate otherwise. The NPPF (2019) is a significant material planning consideration. However, it is not considered that the revised NPPF (2019), significantly changes the policy position with regards to this proposal and Policy 5 remains supportive of the delivery of housing.

6.0 Conclusion

6.1 The proposal to vary the two conditions which both relate to landscaping, trees and hedgerow, are deemed unacceptable due to the loss of important hedgerow, recognised as being important under the 1997 Hedgerow Regulations. The presumption is in favour of protecting and retaining important hedgerows. The proposals therefore conflict with policy DC12 of the Adopted Core Strategy and Development Control Policies Development Plan Document 2009 and paragraph 170 of The NPPF (2019).

RECOMMENDATION

This application is recommended for refusal.

REASON(S) FOR REFUSAL

- 1** **Important Hedgerow protection reason for refusal**
The proposal to vary the two conditions which both relate to landscaping, trees and hedgerow, are deemed unacceptable due to the loss of important hedgerow, recognised as being important under the 1997 Hedgerow Regulations. There is a presumption in favour of protecting and retaining important hedgerows. The proposals therefore conflict with policy DC12 of the Adopted Core Strategy and Development Control Policies Development Plan Document 2009 and paragraph 170 of The NPPF (2019).