

**DEMOLITION OF MODERN BARN AND ERECTION OF 4
DWELLINGS AND GARAGES (RESUBMISSION)
AT
WOODSIDE FARM, SHEPHERDS LANE, HAUGHLEY, STOWMARKET, IP14 3QE.**

PLANNING STATEMENT

Ref: 2335/4
June 2023

INTRODUCTION

1. This statement has been produced in support of a planning application proposing the demolition of a barn and the erection of 4 detached dwellings and garages at Woodside Farm, Shepherds Lane, Haughley, Stowmarket.
2. The application is a resubmission following the withdrawal of DC/23/00383. That application proposed the erection of 5 dwellings on the site and was withdrawn following concerns from the Planning Officer that it represented overdevelopment.
3. The proposal involves the demolition of the existing barn for which the Council has granted Prior Approval for conversion to 5 dwellings under reference **DC/21/03671**. This proposal is an alternative to the approved scheme.
4. The following statement is in two parts. The first section refers to the Council's Local Validation Requirements for planning applications. The second section is a Planning Statement which identifies the relevant national and local planning policies and other material considerations.

LOCAL VALIDATION REQUIREMENTS STATEMENT

AFFORDABLE HOUSING

5. The proposal is for 'Minor Development' and therefore it is below the Government's policy threshold for affordable housing and/or any other contributions.

BIODIVERSITY SURVEY AND REPORT

6. The application is accompanied by an Ecology Report submitted and produced by Framlingham Environmental.

FLOOD RISK ASSESSMENT

7. The Environment Agency Flood Maps confirm that the application site is located within Flood Zone 1 (FZ1) where all types of development are acceptable. Therefore, in this case a Flood Risk Assessment is not necessary.

HERITAGE STATEMENT

8. The building to be demolished is not a listed building and the site is not within a conservation area. The Historic Environment Records confirm that there are no recorded archaeological sites at or near the site and therefore there is no requirement for any pre-determination investigation and no justification for a planning condition requiring an archaeological programme of work.

LAND CONTAMINATION

9. This application is accompanied by a Land Contamination Report.

PLANNING STATEMENT

PLANNING POLICY

10. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (As amended) requires planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise.
11. In this case, the development plan for the area consists of the Mid Suffolk Core Strategy 2008 and the Mid Suffolk Local Plan 1998.
12. The National Planning Policy Framework (NPPF) (2018) sets out the Government's Planning Policies and objectives and is a material consideration. The main theme of the NPPF is to set out a presumption in favour of sustainable development.

Mid Suffolk Core Strategy 2008

13. The Council's Core Strategy was published before the previous and current versions of the NPPF. The Core Strategy provides a spatial strategy and settlement hierarchy for development throughout the district. Policy CS1 includes the words "the rest of Mid-Suffolk, including settlements not listed in the above (hierarchy) will be designated as countryside ...". By virtue of this latter requirement Policy CS1 conflicts with paragraphs 79 and 80 of NPPF. Policy CS1 must therefore be considered as being out of date.
14. Policy CS2 deals with development in the countryside. Policy CS2 is also out-of-date. This is because NPPF does not exhort a restrictive approach to development outside settlements in the manner set out in policy CS2. Policy CS2 obviates a balancing exercise and precludes otherwise sustainable development by default and thereby

defeats the presumption in its favour. Therefore, policy CS2 is also contrary to paragraphs 79 and 80 of NPPF 2018 and should be considered as being out of date.

15. The Council's Core Strategy Focussed Review (CSFR) was published in 2012 in response to the publication of the first edition of the NPPF. Policy FC1 of the CSFR only repeats what was in paragraph 14 of the NPPF 2012. It is now out-of-date because of the test it employs.

Mid Suffolk Local Plan 1998

16. The MSLP is now more than 20 years old. However, the 'saved' policies of the document will continue to remain as part of the development plan until such time as the Council adopts the new Joint Babergh Mid Suffolk Local Plan.
17. Policy H3 of the MSLP concerns housing in villages and states that development within villages will take the form of infilling within the settlement boundary. Policy H7 states that there will be a strict control over new housing in the countryside and that new housing will normally form part of existing settlements.
18. Policies H3 and H7 are now more than 20 years old. They do not reflect the balanced approach towards sustainable development and the provision of rural housing as prescribed by the NPPF and the Government's Planning Practice Guidance (PPG). Policies H3 and H7 are out of date.

OTHER MATERIAL CONSIDERATIONS

National Planning Policy Framework (NPPF)

19. The NPPF sets out the Government's planning policies. At the heart of the NPPF is the presumption in favour of sustainable development. This means that local planning authorities should positively seek opportunities to meet the development needs of their area.
20. Paragraph 8 of the NPPF describes the three objectives of sustainable development as economic, social, and environmental and states that in order to achieve sustainable development proposals should secure economic, social and environmental benefits.
21. This proposal meets each of the three roles of sustainable development for the following reasons. Firstly, the construction of the dwellings will meet the economic role of sustainable development by helping to sustain the vitality and viability of local

services and facilities. In addition, the development will generate local jobs in the building trades during the construction phase.

22. The proposed development will also meet the social role of sustainable development by providing a mix of new family homes. The proposed dwellings would also provide a key social role by helping to maintain a balanced and vibrant local community.
23. The development also accords with the environmental role of sustainable development. The erection of 4 new dwellings on the site rather than the conversion of the existing barn will result in dwellings which will be far more energy efficient and sustainable. Furthermore, the existing barn is a relatively modern steel-framed building; its appearance and scale is not traditional and detracts from the rural character of the area. By contrast, the proposed dwellings are designed with the appearance of a traditional farmhouse and range of barns. The scale, form and materials of the proposed dwellings reflect the Suffolk vernacular. The demolition of the existing modern barn and its replacement with the proposed dwellings will result in environmental enhancement.

Fall-back position created by the Prior Approval

24. The leading case on the proper treatment of a claimed fallback position is **R (Mansell) v Tonbridge and Malling Borough Council [2019] PTSR 1452, and EWCA Civ 1314**. This was an application for judicial review of the grant of planning permission for residential development, in which the planning officer had recommended permission be granted, advising that a realistic “fallback” position was that a less desirable development would go ahead if planning permission was refused.
25. The leading judgment was given by Lord Justice Lindblom. He said, “*The status of a fallback development as a material consideration in a planning decision is not a novel concept. It is very familiar.*”. Where there is a real prospect of a fallback development being implemented it must be taken into account since it is, in legal terminology, a material consideration.
26. Whether there is a real prospect of an extant Prior Approval being implemented is a question of judgment, and a question the Court will not set out prescriptive tests about. In other words, there is no requirement that the site is either allocated or that it benefits from the grant of planning permission. It is for the Council to consider the particular circumstances of the specific case, and reach a rational decision on the likelihood of its taking place.

27. In this case, the Prior Approval for the conversion of the existing barn at the site was granted on 20 August 2021 and therefore has a further 20 months to be completed. Consequently, the extant Prior Approval represents a viable fall-back position.
28. The circumstances of this proposal, including the fall-back position are very similar to those considered by the Inspector in their recent decision to allow Appeal **APP/F3545/W/21/328878**. The Inspector acknowledged that the site was not an appropriate location for residential development having regard to the development plan, but granted planning permission on account of the comparative benefits of the proposed scheme over and above that for which Prior Approval had been given. This proposal will provide the same benefits.

SUMMARY AND CONCLUSIONS

29. The proposal does not accord with the development plan when taken as a whole due to the location of the site. However, the High Court Judgement concerning **Mansell v Tonbridge and Malling Borough Council** is a material consideration and clearly demonstrates that the fall-back position concerning the ability to convert the existing building to 5 dwellings as permitted development is itself a material consideration in the determination of this application.
30. In this case, there is a very realistic opportunity to complete the development granted under the Prior Approval and so it represents a valid and viable fall-back position.
31. Furthermore, the dwellings proposed by this application are more traditional in their form and appearance and so represents an environmental improvement to the scheme granted Prior Approval.
32. As this proposal involves the erection of 4 dwellings where there is an extant Approval for an alternative scheme for 5, the proposal would be more sustainable.
33. Consequently, there are no reasonable grounds to object to the proposed development.