

Application No: DC/23/0012/FUL

AGENT

Mr Charlie Biss
Ravens,
Elsenham Road
Stansted
CM24 8SS

APPLICANT

Baljit Virk
MK Associates Ltd
38 Chigwell Land
Loughton
Essex
IG10 3NY

Date Registered: 15 February 2023

Date of Decision: 13 June 2023

Town And Country Planning Act 1990 (as Amended)

**Town & Country Planning (Development Management Procedure)
(England) Order 2015**

PROPOSAL **Planning application - a. conversion of existing light industrial depot building (class E) to nine apartments (class C3) b. external car and bicycle parking, refuse area and landscaping**

LOCATION **Hazel Stub Depot, Burton End, Haverhill, Suffolk, CB9 9AF**

Permission is hereby **REFUSED** by the Council as Local Planning Authority for the purpose of the above Act and Orders for development proposed in the application shown above.

The reason(s) for the Council's decision to refuse permission are/is:

- 1 The application falls outside any settlement boundary. The site is therefore in the countryside in planning policy terms where housing development is not generally acceptable. There are exceptions to allow for housing development in the countryside as set out under DM5, DM26, DM27 and DM29 (affordable, rural workers dwellings, replacement dwellings and infill where there is a cluster of 10 or more existing dwellings), but this proposal does not satisfy any of these exceptions.

It is quite clear that this site is not within a closely knit cluster of 10 or more dwellings. It would also not consist of the infilling of a small undeveloped plot within an otherwise continuous built up frontage. The principle of residential

development on the site would not therefore be supported as a matter of principle as it would be contrary to policies DM5 and DM27.

The site is also not well connected to services and facilities by public footpaths and cycle routes or public transport. Therefore, occupiers of the proposed dwelling are likely to frequently rely on the private car to access services and facilities which has negative environmental and social effects. Therefore, the application site is in an unsustainable location and deemed unsuitable for residential development, contrary to the aims of the NPPF as a whole and particularly paragraph 80, which seeks to avoid the development of isolated homes in the countryside.

Furthermore, insufficient information has been provided to explain how future residents will share the private access road with motorised vehicles. Furthermore, the proposed site will need to accommodate the movement of all users including children and other vulnerable people. The application has not evidenced how this will occur. NPPF 110.b requires that safe and suitable access is provided to the site for all users. This has not been evidenced.

The absence of footways to access the nearest settlements along with the distances involved are likely to act as a disincentive to sustainable modes of travel including walking and cycling. This would particularly be the case during the wintertime, in times of darkness and inclement weather.

The proposal therefore fails to comply with Policies DM5 and DM27 of the Joint Development Management Policies Local Plan and the NPPF. There are no material considerations in this case to indicate that the application should be determined other than in accordance with the development plan.

- 2 Policy DM2 requires all new developments to recognise and address key features, characteristics and local distinctiveness and maintain and create a sense of place. Policy DM2 also seeks to prevent the loss of gardens which contribute to the character and St Edmundsbury Core Strategy policy CS3 requires all new development to be designed to a high quality and reinforce local distinctiveness. Design that does not demonstrate it has regard to local context and fails to enhance the character, appearance and environmental quality of an area will not be acceptable.

The site is set behind a small cluster of residential properties which in the main are relatively large and set in spacious plots, a small number are listed and whilst the conservation officer raises no object to the impact on the setting of these properties the introduction of a somewhat utilitarian residential scheme adjoining the open countryside does not follow the overall grain of the development of the area and would erode the distinctive, spacious character of the rural locality regardless of scale and positioning. The proposed development would therefore lead to material harm to the open countryside, and is considered to be not in accordance with DM2.

The proposed dwellings would lead to an erosion of the rural character of the area and lead to an urbanising effect on the area. The inclusion of poorly designed residential development in this location is considered to harm the rural character which currently exists. Therefore, the development is not in accordance with DM2 or CS3.

- 3 As required by the National Planning Policy Framework the Local Planning Authority have a duty to consider the conservation of biodiversity and to ensure that valued landscapes or sites of biodiversity are protected when determining planning applications. At a local level, this is exhibited through policies CS2, DM10, DM11 and DM12.

No ecological documents have been submitted as part of this application. Preliminary Ecological Appraisal is necessary, prior to determination, as paragraph 99 of the ODPM Circular 2005 highlights that: "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

Additionally, no biodiversity enhancement measures are identified in the documents provided. The absence of any biodiversity information does not allow the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 as updated by the Environment Act 2021. The lack of this information is deemed to represent a conflict with policy DM11 and DM12 and the advice contained within the NPPF.

This decision relates to the following document and drawing references:

Reference No:	Plan Type	Date Received
TEO-001	Site location plan	05.01.2023
TEO-011	Existing site plan	05.01.2023
TEO-025	Proposed elevations	05.01.2023
TEO-022	Proposed floor plans	05.01.2023
TEO-012	Ex elevations & floor plans	05.01.2023
TEO-021	Proposed block plan	05.01.2023
TEO-005	Photographs	05.01.2023

The Following policies are considered relevant to the current decision:

Development Management Policy DM1 Presumption in Favour of Sustainable Development
Development Management Policy DM2 Creating Places Development Principles and Local Distinctiveness
Development Management Policy DM5 Development in the Countryside
Development Management Policy DM6 Flooding and Sustainable Drainage
Development Management Policy DM7 Sustainable Design and Construction
Development Management Policy DM11 Protected Species
Development Management Policy DM12 Mitigation, Enhancement, Management and Monitoring of Biodiversity
Development Management Policy DM13 Landscape Features
Development Management Policy DM15 Listed Buildings
Development Management Policy DM17 Conservation Areas
Development Management Policy DM22 Residential Design
Development Management Policy DM27 Housing in the Countryside
Development Management Policy DM33 Re-Use or Replacement of Buildings in the Countryside
Development Management Policy DM46 Parking Standards
Core Strategy Policy CS1 - St Edmundsbury Spatial Strategy
Core Strategy Policy CS2 - Sustainable Development
Core Strategy Policy CS3 - Design and Local Distinctiveness
Core Strategy Policy CS4 - Settlement Hierarchy and Identity
Core Strategy Policy CS7 - Sustainable Transport
Core Strategy Policy CS13 - Rural Areas

Informatives:

- 1 When determining planning applications The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires Local Planning Authorities to explain how, in dealing with the application they have worked with the applicant to resolve any problems or issues arising. In this case the Local Planning Authority attempted to discuss its concerns with the applicant but was not able to secure the necessary improvements to the scheme that may have enabled the proposals to be approved.

Rachel Almond

Rachel Almond
Service Manager (Planning - Development)

Date: 13 June 2023

NOTES

1 If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission or consent, or to grant permission or consent subject to condition, they may appeal to the Secretary of State for Communities and Local Government. The applicant's right of appeal is in accordance with the appropriate statutory provisions which follow:

Planning Applications: Section 78
Town and Country Planning Act 1990

Listed Building Applications: Section 20
Planning (Listed Buildings and Conservation Areas) Act 1990

Advertisement Applications: Section 78
Town and Country Planning Act 1990 Regulation 15
Town and Country Planning (Control of Advertisements) Regulations 2007

Notice of appeal in the case of applications for advertisement consent must be served within eight weeks of receipt of this notice. Notice of Householder and Minor Commercial Appeals must be served within 12 weeks, in all other cases, notice of appeal must be served within six months of this notice. If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within six months of the date of this notice, whichever period expires earlier.

Appeals must be made online at <https://www.gov.uk/appeal-planning-decision>. The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he/she will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him/her that permission for the proposed development could not have been granted by the Local Planning Authority, or could not have been so granted otherwise than subject to the conditions imposed by it, having regard to the statutory requirements*, to the provisions of the Development Order, and to any directions given under the Order. The Secretary of State does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him/her.

2 If permission or consent to develop land or carry out works is refused or granted subject to conditions, whether by the Local Planning Authority or by the Secretary of State and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development or works which has been or would be permitted they may serve on the Council of the district in which the land is situated, a purchase notice requiring the Council to purchase his interest in the land in accordance with the provisions of Section 137 of the Town and Country Planning Act 1990 or Section 32 Planning (Listed Buildings and Conservation Areas) Act 1990.

3. If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

*The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely Sections 70 and 72(1) of the Act.