

NORTH WALSHAM – PP/20/0160: Permission in principle for the demolition of the existing buildings on site and the erection of four dwellings with associated parking and gardens and an extension of 30mph speed limit; Land East of Bacton Road, North Walsham, NR28 0RA; for Cincomas Ltd.

Major Development

- **Target Date: 08 May 2020**

- **Extension of Time: TBC**

Case Officer: Mr G Lyon

Permission in Principle

THE APPLICATION

This application for Permission in Principle is the first stage of an alternative route to obtaining planning permission for housing-led development. In this case, the applicant is seeking permission in principle to erect up to four dwellings on the site.

The proposed 'red line' site within which the principle of up to four dwelling is proposed includes an existing steel frame former agricultural building towards the rear of the site and also extends across a large area of woodland along the eastern side of Bacton Road, which are subject to tree preservation orders. There are also large areas of land which are within the applicant's control within the 'blue line' areas to the south also on the road frontage, and the east at the rear of the site.

BACKGROUND

This application came before the Development Committee on 28 May 2020.

At that time officers explained that whilst only location, land use and amount of development could be considered under "Permission in Principle" applications, other matters of detail had been included in the report as they had an influence on the amount of development that the site could accommodate. Officers recommended refusal of the application.

The Committee debated the application at some length including discussions about whether or not:

- the site was detached from or considered to be within the settlement of North Walsham (in relation to Policies SS 1 and SS 2);
- the site was considered to be 'brownfield land';
- highway issues were significant;
- there were likely noise and odour issues including from adjacent poultry unit; and
- the proposal would impact on trees subject to a tree preservation order

The Development Committee **RESOLVED** by 11 votes to 1:

That in view of the complexity of the site and the need for the applicant to provide further key information, this application be deferred until a physical site inspection can take place and additional information is provided regarding:

- **The layout of the proposed bungalows within the site**
- **How trees and other landscaping can be protected**
- **Details of proposed footpath including views of Highway Authority**
- **A full ecological assessment**
- **Proper assessment of noise and odour issues to include the appropriate involvement of EH officers**

- **To enable further objective dialogue with Planning Officers to find an appropriate approach to the reuse this brownfield site.**

A copy of the Officer report and minutes from 28 May 2020 meeting are attached at **Appendix 1**.

SITE VISIT

Following a significant delay due the impact of covid-19 and the need to ensure visits by Committee could be undertaken safely in accordance with government guidelines, the Development Committee visited the site on 17 Dec 2020.

WHAT IS PERMISSION IN PRINCIPLE

It is important that the Development Committee understand the range of issues that can be considered as part of a 'Permission in Principle' application.

Committee should remember that the permission in principle consent route is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for proposed development from the technical detail of the development. This is a different way of considering proposals

The permission in principle consent route has 2 stages:

- **Stage 1** - the first stage (or permission in principle stage) establishes whether a site is suitable in-principle; and
- **Stage 2** - the second ('technical details consent') stage is when the detailed development proposals are assessed.

This application is at Stage 1 (Permission in Principle) and therefore the Committee can only reasonably consider:

- **Location** – Is this an appropriate location for the proposed development?
- **Land Use** – Is the proposed use of the land for residential development acceptable?
- **Amount of Development** – Is the amount of development proposed acceptable (up to 4 dwellings)

Other guidance about permission in principle was included within the report to 28 May 2020 meeting which is attached at **Appendix 1**.

MATTERS OF DEFERRAL

In deferring this application for a site visit, the Committee also raised a number of questions including wanting to understand:

1. **How trees and other landscaping can be protected;**
2. **Details of proposed footpath including views of Highway Authority;**
3. **The impact on ecology via an ecological assessment;**
4. **Other impacts including a proper assessment of noise and odour issues**
5. **The layout of the proposed bungalows within the site;**
6. **How Planning Officers can find an appropriate approach to the reuse this brownfield site.**

In respect of points 1-4 concerning impact on trees, highway/footpaths, ecology and noise and odour impacts, these are all matters that would be considered at the second ('technical details consent') stage. The Committee cannot insist that the applicant provides this information at this stage nor would it be appropriate to determine the application adversely because of the absence of this information. The applicant considers that the Committee have been provided with sufficient information to determine the application.

In respect of the point 5 and the layout of the proposed bungalows within the site, the applicant has provided detail in the form of an indicative plan showing four dwellings within the area of the site as shown on drawing number PL01 Revision E - 'PROPOSED SITE PLAN & LOCATION PLAN'. This shows four dwellings set within the walled courtyard of the existing building to be demolished with dwellings (Plots 2 and 5) measuring circa 11.5m x 7m (100sqm internal floor area) and (Plots 3 and 4) measuring circa 8.5m x 13.5m (70sqm internal floor area). The indicative layout shows the proposed access, parking at two spaces per unit and indicates the garden areas for each unit. Officers consider that the applicant has provided sufficient information to aid the Committee in determining whether up to four dwellings is appropriate. Further guidance is contained below in respect of Amount of Development.

In respect of point 6 and finding an appropriate approach to the reuse of this brownfield site (previously developed land), whilst it is not a matter for planning officers to work for applicants to actively seek alternative uses for previously developed land, Officers recognise that the site can be considered previously developed land and this attracts weight as a material consideration in favour of the proposal. The weight to be attached to that material consideration in favour is a matter for the decision maker. However, any weight in favour has to be assessed against any conflicts with the Development Plan, including the locational considerations set out below.

LOCATION

In considering whether the location of the proposal for Permission in Principle (PiP) for up to four dwellings is acceptable, it is important that the Committee recognises that Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out a statutory requirement that, applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This requirement is indeed reasserted by central government within its own guidance for LPAs in assessing PiP proposals.

The development plan for North Norfolk comprises:

- The North Norfolk Core Strategy (adopted 2008),
- The North Norfolk Site Allocations Development Plan Document (adopted 2011),
- Norfolk Minerals and Waste Core Strategy and Development Management Policies 2010-2026 DPD (adopted September 2011).

Other material considerations to take in to consideration when determining PiP proposals would include guidance within the NPPF (in so far as determining conformity of the Council's Development Plan policies with government aims set out in the NPPF and other relevant documents including the practice guidance which was last updated 15 March 2019).

In terms of relevant location considerations, Core Strategy Policy SS 1 sets out the spatial strategy for North Norfolk and Policy SS 2 relates specifically to the countryside area, limiting development to that specified in the policy which is recognised to require a rural location. These are strategic policies that set out the overarching approach for distributing development across the district, promoting sustainable patterns of development and protecting the

countryside. These policies are fundamental to the effective operation of the Development Plan.

Policies SS 1 and SS 2 are Development Plan policies which are most important for determining this PiP application and they are up-to-date, because they are consistent with the NPPF. This view on consistency with the NPPF has been supported at appeal on a number of occasions.

The development plan is operating effectively and the Council is delivering the necessary level of homes as part of its overall approach as evidenced by the latest available information relating to the supply of housing land in the district which demonstrates 5.16 years of deliverable housing land.

If the Council were not able to demonstrate a five-year housing land supply, the 'tilted balance' in paragraph 11 of the NPPF known as the 'presumption in favour of sustainable development' would be engaged and Permission in Principle should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

The application site is located outside the settlement boundary of North Walsham and therefore in the designated Countryside. Whilst it is recognised that the site is near to the defined settlement boundary edge of North Walsham, this does not alter the fact that the site technically lies outside of the defined settlement boundary for the town. Officers consider therefore that the starting point should be to consider the proposal as a departure from the Development Plan. It is considered that permission should not normally be granted unless there are material considerations which can be afforded sufficient weight to justify a departure from policy. The applicant has presented a case that they consider the brownfield land (previously developed land) status together with caselaw on how settlements are defined are sufficient material considerations to justify a departure.

Whilst it is ultimately a matter of planning judgment for the Committee as decision maker in carefully weighting those material considerations (both for and against the proposal) and weighing those against any departure from Development Plan policies, Officers consider that the locational issues alone weigh heavily against the grant of permission in principle, notwithstanding the previously developed land status of part of the site.

LAND USE

The applicant is proposing to use the land to provide up to four units of residential accommodation (Use Class C3).

Officers consider that, if Committee accept the suitability of the Location of the site for development, then the proposed residential use itself would, in theory, be considered acceptable subject to confirming the amount of development proposed.

Any matters relating to noise, odour, residential amenity would be considered at the second ('technical details consent') stage.

AMOUNT OF DEVELOPMENT

The applicant is proposing to use the land to provide up to four units of residential accommodation as set out indicatively on drawing number PL01 Revision E - 'PROPOSED SITE PLAN & LOCATION PLAN'.

If the Committee were minded to accept the suitability of the Location of the site and the proposed land use then it would be a matter of considering how many units would be acceptable on the site. In making any decision to approve, the Committee would have to indicate the minimum and maximum number of dwellings to be provided on the site (up to a maximum of four dwellings).

In setting the minimum and maximum amount of dwellings that can be provided, at this first permission in principle stage, the Committee cannot restrict the size of dwellings to be provided nor specify heights. These issues would all be resolved at the second ('technical details consent') stage.

Whilst unable to be drawn into matters for determination at the second ('technical details consent') stage, the Committee may still wish to consider carefully the factors that would influence the maximum or minimum numbers that can be provided as part of the PiP. In this case, given the presence of significant tree cover across large areas of the site which is subject to a tree preservation order, it would be reasonable to conclude that the developable area of the site would likely be limited to that within the circa 50m x 30m (circa 1,500sqm) walled enclosure currently housing the building to be demolished. The applicant's indicative plans show four dwellings (2 x four person 70sqm units and 2 x five person 100sqm units) in this location occupying a total footprint of circa 390sqm which leaves circa 1,100sqm for access, vehicle parking and private garden areas.

Whilst Officers recognise (as set out in report to 28 May 2020) that there may be various constraints which will impact on the second ('technical details consent') stage, the applicant has provided reasonable evidence to explain that four modest sized dwellings could be accommodated on the site and still retain space for private amenity space for those dwellings together with access and parking.

Officers consider that there is reasonable evidence to enable the Committee to set a maximum of up to four dwellings on this site. In terms of minimum numbers, Officers consider that there are no justified reasons to insist on a minimum number above 1 unit.

CONCLUSION

Whilst Officers consider there may be a range of issues that are likely to have an impact on the second ('technical details consent') stage, these are not for consideration at this stage and the Committee are limited to considering the Location, Land Use and Amount of Development.

Whilst the evidence provided by the applicant indicate that a residential land use of up to four dwellings may be acceptable and could be provided within the site, these issues are dependent on the location issues being considered acceptable.

Officers have set out that the site is beyond the identified development boundary of North Walsham under Core Strategy Policy SS 1 and is technically within the Countryside policy area where Core Strategy Policy SS 2 applies. Officers consider therefore that the starting point should be to consider the proposal as a departure from the Development Plan.

The applicant has presented a case that they consider the brownfield land (previously developed land) status of the site together with a view that caselaw on how settlements are defined are sufficient material considerations to justify a departure.

Whilst it is ultimately a matter of planning judgment for the Committee as decision maker in carefully weighting material considerations (both for and against the proposal) and weighing those against any departure from Development Plan policies, Officers consider that the locational issues alone weigh heavily against the grant of permission in principle.

RECOMMENDATION - Permission in Principle should be refused

Reasons for Refusal

1. The District Council adopted the North Norfolk Core Strategy on the 24th September 2008 and the North Norfolk Site Allocations Development Plan in February 2011. A Supplementary Planning Document Residential Design Guide was also adopted in 2008. The National Planning Policy Framework was published in March 2012 and subsequently revised and updated in February 2019. Collectively these provide the context for the determination of planning applications in accordance with Section 38 of the Planning and Compensation Act 2004.

The Core Strategy includes the following applicable policies:

- SS 1 - Spatial Strategy for North Norfolk
- SS 2 - Development in the Countryside

The proposal is contrary to the provisions of the adopted development plan. In particular:

2. The proposal is for residential development on a site which is located on land designated as 'Countryside' under Policy SS 1 of the adopted Core Strategy. Policies SS 1 and SS 2 seek to prevent new housing development in the Countryside apart from certain limited exceptions which do not apply in this case. Furthermore, the principle of such a development in the designated 'Countryside' area falls outside the scope of adopting a more flexible approach to proposals for new housing in rural communities or on previously developed land as set out within the National Planning Policy Framework (NPPF) Paragraphs, 77, 78, 79 and 118.
3. It is considered that there are no material considerations or public benefits which are sufficient to outweigh or justify this clear departure from the adopted and up-to-date Development Plan.