
F/YR19/0068/O

Applicant: Mrs J Montgomery And Mrs F Perry **Agent : Mr Lee Bevens L Bevens Associates Ltd**

Land North Of 17, Doddington Road, Benwick, Cambridgeshire

Erection of up to 15no dwellings (outline application with matters committed in respect of access) involving demolition of buildings

Reason for Committee: The number of letters of support received, which is contrary to the Officer's recommendation

1 EXECUTIVE SUMMARY

A very similar proposal was refused under delegated powers in May 2018. This application has received seven letters of support and the scheme of delegation now requires the application to come before Members for determination.

The reasons for refusal remain the same as before because of the similarity between the two applications. However, this is with the exception of the third reason for refusal. The ecology issues have been resolved through the submission of additional information.

For the reasons set out in the report, it is not considered that the proposal accords with the requirements of Policy LP3 (Settlement Hierarchy) which identifies the settlement of Benwick to be a Small Village where development will normally be of a very limited nature and normally be limited in scale to residential infilling. This proposal is for up to 15 dwellings and is considered to constitute neither infill nor limited scale development and is therefore contrary to LP3.

Policy LP14 and the NPPF seeks to steer developments to areas of lowest risk of flooding and requires developments, such as this proposal, to pass the Sequential Test and then the Exception Test, should the Sequential Test be passed. The application is considered to fail the Sequential Test and Exception Test as it fails to demonstrate that no other sites are available within the district at a lower risk of flooding, or that the development provides wider sustainability benefits to the community that outweigh flood risk. The proposal is therefore contrary to the Cambridgeshire Flood and Water SPD 2016, Policy LP14 of the Fenland Local Plan 2014 and Paragraphs 155-165 of the NPPF.

In summary, the scale of the proposal is considered too great to that which the development plan intend under LP3 which results in a large number of properties being unjustifiably exposed to flood risk.

The recommendation is for refusal.

2 SITE DESCRIPTION

- 2.1 The application site consists of a plot of land measuring 0.68 hectares situated to the north east of Heron Way, which is a development of approximately 64 houses and flats. The site extends north from Doddington Road terminating approximately

30m south of the River Nene (old course), and extending east behind the frontage properties 15-17b Doddington Road.

- 2.2 There is an existing access onto Doddington Road which served a large garage (now in a state of disrepair). Further buildings are located within the site which is mostly overgrown and appears unused.
- 2.3 The site is located within Flood Zone 3.

3 PROPOSAL

- 3.1 The proposal is in outline for the erection of up to 15 dwellings with only the access from Doddington Road committed at this time. A very similar application was refused in May 2018 (F/YR18/0198/O). The applicant has attempted to address only one of the three reasons for the previous refusal.
- 3.2 With regard to refusal reason 3, the applicant has submitted an Ecological Appraisal and Survey. The Wildlife Officer now has no objection to the proposal, subject to certain planning conditions.
- 3.3 Although no details have been committed at this time other than the access off Doddington Road, the applicant has submitted an illustrative layout showing the siting of 15 plots off a central spine road. This is the same as the previous refusal. On 28th May the agent submitted a revised layout (Revision D) to address the highways officer's comments involving minor changes to the access only.
- 3.4 Additional drainage information was submitted on 1st May in response to the Lead Local Flood Authority's objection.
- 3.5 In addition a Community Engagement exercise took place, with an advert placed in the Fenland Citizen on 29th November 2017, together with letters and questionnaires being put through neighbour's doors. A public exhibition took place at Benwick Village Hall from 4pm to 8pm on 13th December 2017 and was visited by approximately 18 individuals (evidenced by those who signed in to the exhibition). This can be found within the Design and Access Statement.
- 3.6 Full plans and associated documents for this application can be found at:
<https://www.fenland.gov.uk/publicaccess/applicationDetails.do?activeTab=documents&keyVal=PLU4A1HE01U00>

4 SITE PLANNING HISTORY

F/YR18/0198/O - Erection of up to 15no dwellings (outline application with matters committed in respect of access) involving demolition of buildings- refused 24/05/2018 at Land North of 17 Doddington Road Benwick

F/YR07/0063/F – Erection of 2 x 3-bedroom detached houses with associated parking involving demolition of existing garage – granted April 2007 at Land West of 15 Doddington Road Benwick

F/90/0062/F – Erection of a 7-bed residential house for the elderly – granted November 1990 at Land West of 15 Doddington Road Benwick

5 CONSULTATIONS

5.1 Benwick Parish Council

The planning application is not supported on the grounds that it is over development in the village, sewage may be an issue, and it is in an unsustainable location due to lack of infrastructure.

5.2 FDC Environmental Services

The Environmental Health Team note and accept the submitted information and have 'No Objections' to the proposed development, as it is unlikely to have a detrimental effect on local air quality or the noise climate. However as the proposal involves the demolition of an existing building the following condition should be imposed.

UNSUSPECTED CONTAMINATION

CONDITION: If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing with the LPA) shall be carried out until the developer has submitted, and obtained written approval from the LPA, a Method Statement detailing how this unsuspected contamination shall be dealt with.

REASON: To ensure that the development complies with approved details in the interests of the protection of human health and the environment.

5.3 NHS England

Due to the low number of dwellings we do not wish to raise an objection to this development or request mitigation.

5.4 FDC Housing Strategy Officer

We would expect a contribution of 25% on this site of 15 dwellings. The total number of dwellings we require would be 4.

The current tenure split we would expect to see delivered for affordable housing in Fenland is 70% affordable rented tenure and 30% intermediate tenure. This would equate to the delivery of 3 affordable rented homes and 1 intermediate tenure in this instance.

5.5 Police Designing Out Crime Officer

I have noted that it is in outline only with all matters reserved. I have viewed all relevant documents and drawings submitted with regard to community safety and vulnerability to the risk of crime. If planning approval is given I would ask that this office be further consulted in order to consider design and layout especially in regard to car parking arrangements and external lighting. I have noted that the access road to the planned development is marked as an adopted road, this would indicate that the lighting proposed would be to the required standard.

I am supportive of the design and layout currently shown and ask that the applicant consider the principles of Secured by Design. This proposed development could, with support from this office achieve Gold Secured by Design accreditation and I am happy to work with them in this regard.

I have no further comments at this stage.

5.6 CCC Lead Local Flood Authority

08.02.2019 - object to the grant of planning permission for the following reasons:

1. No surface water strategy
2. Infiltration Issues
3. Approval to drain into Anglian Water sewerage system or riparian drain required

13.05.2019 - maintain their objection to the grant of planning permission for the following reason:

Approval to drain into riparian drain and IDB system required

If infiltration is proven not to be viable following on-site infiltration testing, it has been proposed to discharge into the riparian drain which runs in a north-east direction along the southern side of Doddington Road, which ultimately discharges into Benwick Internal Drainage Board (IDB). As stated in our previous objection letter, the riparian owner and Benwick IDB must be consulted and a principle agreement must be obtained to discharge into their drain/ system.

5.7 CCC Highways

The principle of the development isn't unacceptable from a highways perspective. Should the LPA be minded to grant this application, I would like to see auto track plans that detail an 11.5m long dennis eagle refuse vehicle entering and leaving the development with a standard saloon vehicle manoeuvring in the opposite direction. This detail will stipulate what kerb radii is required. The access should also come forward with a drainage detail at the access. Defer for amended plans.

29.05.2019 - *Further to receiving the amended plan (Rev D), I can confirm I have no highways objections subject to the following condition recommendations;*

A condition will be imposed at reserve matters stage requiring the applicant to either enter into a Section 38 Agreement with the LHA or enter into a Private Management Agreement (PMA).

- 1. Standard outline condition securing reserved matters*
- 2. Prior to first occupation, the access shall be sealed, levelled and drained in accordance with detailed plans to be submitted and approved in writing by the Local Planning Authority*

Reason: in the interests of satisfactory access

- 3. Prior to the commencement of the development, the vehicular) crossing of the ditch along the frontage of the site shall be constructed in accordance with a scheme to be submitted to and agreed in writing with the Local Planning Authority, in consultation with the Drainage Authority and the Highway Authority.*

Reason: To ensure construction of a satisfactory access.

5.8 PCC Wildlife Officer

Bats- *The mitigation measures set out in section 7 of the Bat Report appear acceptable. I would therefore now advise that the LPA does hold sufficient information to be confident that a licence from NE could be issued.*

I would therefore request that bat mitigation measures set out in section 7.1 and 7.2 of the Bat Survey Report are secured by condition.

Nesting Birds- *The proposal involves the removal of vegetation as well as buildings which have evidence of nesting birds. I would therefore recommend that a standard bird nesting Informative be attached should the scheme be approved.*

To mitigate for the loss of nesting habitat, I would request that a range of nesting boxes are installed that cater for a number of different species such as House Sparrow, Starling & House Martin. Details regarding numbers, designs and locations should be provided by the applicant which may be secured by condition.

Barn Owls: Evidence of roosting barn owls was found in building 2 (three-bay garage), however I am satisfied that this likely to be a temporary roost, rather than a nest site due to the lack of nesting features in the building. However, as set out in the ecology report, I would advise that a pre-demolition survey for presence of barn owl is made by a suitably qualified ecologist, and that a replacement barn owl box is installed at a suitable location (such as on a pole along the northern boundary hedgerow). The above survey and full details of the box and its location should be provided prior to commencement of development/ demolition, to be secured by condition.

Hedgehogs: Suitable habitat is present within the application site to support hedgehogs which are a UK Biodiversity Action Plan priority species and listed as a Species of Principle Importance under s41 of the NERC Act 2006. I would therefore recommend that as a precaution, the following measures are secured in relation to hedgehogs:

- a) All construction trenches are covered overnight or a means of escape provided for any hedgehogs (or other mammals or reptiles) that may have become trapped;
- b) Impenetrable barriers are avoided by allowing adequate gaps to be retained under any new fencing.

The above may be secured via a suitably worded condition.

Site design & landscaping:

It is important that the mature northern and eastern boundary hedgerows are retained (as well as being protected during construction) as indicated on the Proposed Block Plan drawing. With regard to any additional planting I would recommend the use of a range of native tree and shrub species, the detail of which may be secured by condition.

Recommendation:

I have no objection to the proposal subject to the use of appropriate conditions as set out above. I can advise that subject to my recommendations being fully incorporated into the approved scheme the development will in my opinion result in no net loss in biodiversity.

5.9 Environment Agency

We consider that the main source of flood risk at this site is associated with watercourses under the jurisdiction of the relevant Internal Drainage Board (IDB). As such, we have no objection to the proposed development on flood risk grounds.

National Planning Policy Framework Flood Risk Sequential Test

In accordance with paragraph 158 of the National Planning Policy Framework, development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. It is for the local planning authority to determine if the Sequential Test has to be applied and whether or not there are other sites available at lower flood risk. Our national flood risk standing advice reminds you of this and provides advice on how to do this.

Internal Drainage Board

The IDB should be consulted with regard to flood risk associated with watercourses under their jurisdiction and surface water drainage proposals.

5.10 FDC Tree Officer

The indicative site plan (drawing CH17/LBA/433/OP-1-101) submitted with the outline application suggests retention of the hedges/trees to the north and east boundaries are to be retained. I have no objections to the scheme providing the above is confirmed in the final layout. The indicative scheme also has significant open space for a high quality tree planting/soft landscape scheme that would 'soften' the development. I have no objection to the scheme and landscaping can be dealt with under Conditions.

5.11 CCC Archaeology

Our records indicate that the site lies in an area of high archaeological potential on the east side of the historic village of Benwick (Beymwich), known to date to at least the early thirteenth century. The site lies on the old course of the River Nene, which follows an ancient drainage system that has affected settlement patterns across the fenland landscape for centuries. The past landscape of the area was dominated by changing sea levels and numerous interconnecting waterways and the proposed development area is situated directly upon a principal roddon (extinct riverbeds that have been left high due to differential erosion of alluvial deposits) which are a feature of the local landscape and often attracted settlement along their length, and were particularly known for exploitation in the Roman and medieval periods for salt production. Similar examples elsewhere in the county have produced extensive archaeological sites based around this industry. It is anticipated that important archaeological remains could survive on the site and that these would be severely damaged or destroyed by the proposed development.

We do not object to development from proceeding in this location but consider that the site should be subject to a programme of archaeological investigation secured through the inclusion of a negative condition, such as the example condition approved by DCLG:

Condition

No demolition/development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI which shall include:

- a) the statement of significance and research objectives;*
- b) The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works*
- c) The programme for the analysis, publication & dissemination, and deposition of resulting material. Part (c) of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.*

Developers will wish to ensure that in drawing up their development programme, the timetable for the investigation is included within the details of the agreed scheme.

5.12 Middle Level Commissioners

No response received

5.13 Local Residents/Interested Parties

15 objections have been received from residents of Heron Way, Doddington Road and Whittlesey Road, Benwick, raising the following issues:

- Access
- Anti Social behaviour
- Backfill
- Density/Over development
- Design/Appearance
- Devaluing property
- Drainage
- Environmental Concerns
- Flooding (has not passed the Sequential Test)
- Light Pollution
- Local services/schools - unable to cope
- Loss of view/Outlook
- Noise
- Overlooking/loss of privacy
- Proximity to property
- Residential Amenity
- Smell
- Traffic or Highways
- Visual Impact
- Wildlife Concerns
- Would set a precedent
- No different to the previous refusal
- People are trying to turn Benwick into a town, keep it a rural village
- Objection to connection to Riparian Drain

7 letters of support have been received from residents of Heron Way and High Street Benwick, mostly welcoming the development of the site which is considered to be an eyesore. Some of this support is dependent on; the detailed scheme not including tree planting which would cause overshadowing; and no impact on privacy.

6 STATUTORY DUTY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted Fenland Local Plan (2014).

7 POLICY FRAMEWORK

7.1 National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Para 2. -Applications should be determined in accordance with the development plan, unless material considerations indicate otherwise

Para 10. - Presumption in favour of sustainable development

Para. 47 – All applications for development shall be determined in accordance with the development plan, unless material considerations indicate otherwise

Chapter 14 – Meeting the challenge of climate change, flooding and coastal challenge

7.2 Fenland Local Plan 2014

LP1: Presumption in Favour of Sustainable Development

- LP2: Facilitating the Health and Wellbeing of Fenland Residents
- LP3: Spatial Strategy, Settlement Hierarchy and the Countryside
- LP4: Housing
- LP5: Meeting Housing Need
- LP12: Rural Area Development Policy
- LP13: Managing the Impact of Growth
- LP14: Climate Change and Flooding Risk
- LP15: Sustainable Transport
- LP16: High Quality Environments
- LP19: The Natural Environment

7.3 **Supplementary Planning Documents/Guidance:**

- Delivering & Protecting High Quality Environments in Fenland SPD (2014)
- Cambridgeshire Flood & Water SPD (2016)

8 **KEY ISSUES**

- **Principle of Development**
- **Flood Risk and Drainage**
- **Highway Safety**
- **Ecology**
- **Other issues**
- **S106**

9 **ASSESSMENT**

Principle of Development

- 9.1 Policy LP3 identifies the village of Benwick to be a Small Village where development will be considered on its merits but will normally be limited in scale to residential infilling. The development of up to 15 dwellings is not considered to accord with this limitation as it is neither limited in scale nor infill development.
- 9.2 The applicant has argued in this revised submission that Benwick is in a sustainable location, close to amenities, including a new village shop and public transport and that there should be a presumption in favour of this sustainable development.
- 9.3 Also, it is argued, that the scheme has been designed to comply with LP16 by being respectful to the character of the area and making best use of the site. Similar principles have been followed to that of the existing residential development in Heron Way, and traditional and modern materials would be used to ensure that the proposal respects the local character.
- 9.4 The applicant also refers to the Community Consultation exercise undertaken in November 2017, although it is noted that there was a limited response/ turnout and limited support for the proposal. For reference, the Village Growth Threshold for Benwick was assessed to be 42 new dwellings during the plan period. At the time of writing this report 24 dwellings had been committed or built in Benwick since April 2011. A recent appeal decision indicates that the threshold considerations and requirement for community support should not result in an otherwise acceptable scheme being refused and against this backdrop the absence of overwhelming community support does not render the scheme unacceptable in planning terms.
- 9.5 Notwithstanding the above comments, it is considered that the proposal would be contrary to Policy LP3 as it would not represent a small scale or infill development,

This is consistent with the previous refusal. The principle of a development of this size in this location is therefore not considered to be acceptable as it would result in a larger scale of development than the development plan allows for Benwick - which has consequences in respect of placing a large number of properties at a higher risk of flooding.

Flood Risk and Drainage

- 9.6 The site is located in Flood Zone 3, an area at highest risk of flooding. The applicant has submitted a Flood Risk Assessment (FRA) and at the request of CCC Lead Local Flood Authority additional drainage information was provided.
- 9.7 The NPPF advises that development should be steered to areas of lowest flood risk and development in Flood Zone 3 should pass the sequential test and then the exception test. Policy LP14 of the Fenland Local Plan 2014 and the Cambridgeshire Flood & Water Supplementary Planning Document (SPD) provide practical advice and guidance on managing flood risk and surface water to aid the submission and determination of development proposals.
- 9.8 In this instance as the scale of the proposal is not appropriate for a small village (as set out above) and due to this, the appropriate area of search for the sequential test is considered to be the whole of the rural district (countryside and villages).
- 9.9 The applicant accepts that there will be sites within the district in more preferable locations (at lower risk of flooding within Flood Zone 1) and has declined to undertake a district wide search. Therefore, the development is considered to fail the sequential test.
- 9.10 The development would also be required to pass the Exceptions Test if the Sequential Test is met whereby it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk. The general provision of housing by itself would not normally be considered as a wider sustainability benefit to the community which would outweigh flood risk.
- 9.11 Examples of wider sustainability benefit include the regeneration of an area, or the provision of new community facilities such as green infrastructure, woodland community centres, cycle ways/footways or other infrastructure which allow the community to function in a sustainable way. With smaller schemes the LPA has previously considered the inclusion of climate change mitigation and/or renewable energy themes as acceptable solutions to passing the Exceptions Test. However, no such details have been provided by the applicant.
- 9.12 As such, and similar to the last application, the proposal is contrary to the adopted Flood and Water SPD and conflicts with Policy LP14 of the Fenland Local Plan and Paragraphs 100-104 in the NPPF as it would unjustifiably place people and property at a high risk of flooding.
- 9.13 The objectors' comments are noted. The Lead Flood Authority has sought additional information with regard to sustainable drainage on the site and now appears to be content with the submitted information. Although they have requested that Benwick Internal Drainage Board are consulted and a principle agreement be obtained at this time to discharge into the riparian drain/ system should infiltration be proven not to be viable following on-site infiltration testing.

9.14 The riparian drain which runs in a north-east direction along the southern side of Doddington Road. Given that this is an outline planning application and that there are several options for discharge, a suitably worded condition would be appropriate if the proposal was acceptable in all other respects, and that final details of all drainage matters would be the subject of the Reserved Matters applications.

Highway Safety

9.15 The objectors' concerns are noted. However, the Highways Officer does not have any concerns with regard to traffic generation or highway safety. The amended plan has annotated more detail to the access road and subject to appropriate planning conditions the proposal is considered to comply with LP15 of the Fenland Local Plan 2014.

Ecology

9.16 One area which has been addressed since the previous application is the Wildlife Officer's objection due to the lack of information previously submitted. This has now been successfully addressed and this reason for refusal has been removed.

9.17 The Wildlife Officer is content that subject to the use of appropriate conditions and his recommendations being fully incorporated into the final details of the scheme the development will result in no net loss in biodiversity, and would comply with Policy LP16(b) and LP19 of the Fenland Local Plan 2019.

Other issues

9.18 Other concerns have been raised from neighbouring properties regarding:

- Design/Appearance
- Devaluing property
- Loss of view/Outlook
- Noise
- Overlooking/loss of privacy
- Proximity to property
- Residential Amenity
- Smell

9.19 As this is an outline application with all matters reserved, it is not possible to consider in detail: design/ appearance; loss of view/ outlook; overlooking/ loss of privacy; proximity; noise and residential amenity. Having said that, the indicative site layout plan shows one possible layout which demonstrates that it is possible to accommodate 15 dwellings on the site (density 22 dwellings per hectare) without detrimentally impacting on the neighbouring residents' amenity. However, this would be confirmed through the submission of the reserved matters applications.

9.20 The devaluation of property is not a planning consideration. The issue of "smell" has been raised but not clarified albeit odour nuisance is not generally an issue in the longer term with residential development. Notwithstanding, such issues are normally addressed through separate environmental legislation.

S106

9.21 Whilst there are fundamental issues with regard to the principle of the development and related Flood Risk, the applicant has agreed to the following contributions should the application be considered to be acceptable:

An off-site contribution to affordable housing provision (equivalent to 4 dwellings) in accordance with Policy LP5; and with regard to Open Space the amount would be

£14,960 (based on a land value of £100,000 per ha) towards open space provision in accordance with FDC Developer Contributions SPD (2015) equivalent to 22% of the development site area.

9.22 These figures are based on the indicative layout submitted with the proposal and as such comply with policies LP13 and LP5 and could be reasonably secured through a S106 planning obligation.

10 CONCLUSIONS

10.1 The proposal is considered to be contrary to Policy LP3 in that it is not “limited in scale” or an infill development. This consequently results in large scale development unjustifiably placing people and properties at a high risk of flooding. In this regard, the proposal also fails the Sequential Test (and Exception Test) and is contrary to the adopted Flood and Water SPD, Policy LP12 A(j) and LP14 of the Fenland Local Plan and Paragraphs 155-161 of the NPPF.

10.2 The Council can currently demonstrate a 5 year supply of housing and therefore the ‘tilted balance’ under paragraph 11 of the NPPF is not engaged – notwithstanding that flood risk is an exception to this in any case. In this regard therefore, the policies within the development plan are considered up to date and robust enough to determine this proposal.

10.3 In law, the LPA is required to determine a planning application in accordance with the development plan unless material planning considerations indicate otherwise. Officers consider that there are no material considerations that have been presented to indicate that a departure from the development plan would be justified in this instance. Therefore, Officers recommend that the application is refused for the reasons in section 11 below;

11 RECOMMENDATION

Refuse for the following reasons:

1. Policy LP3 considers the settlement of Benwick to be a “Small Village” where development will normally be of a very limited nature limited in scale to residential infilling. It is considered that the development is not limited in scale and does not constitute residential infilling, consequently locating a major residential development at a high risk of flooding, and is therefore considered to be contrary to the sustainability aims of Policy LP3.
2. Policy LP14 of the Fenland Local Plan and The NPPF seeks to steer developments to areas of lowest risk of flooding and requires developments such as this application to pass the Sequential Test and the Exception Test, should the Sequential Test be passed. It is considered that application does not pass the Sequential Test as it fails to demonstrate that no other sites are available within the district at a lower risk of flooding. Furthermore, the application also fails the Exception Test as it fails to demonstrate that the development provides wider sustainability benefits to the community that outweigh flood risk. The proposal is therefore contrary to the Cambridgeshire Flood and Water SPD 2016, Policies LP12A(j), LP14 of the Fenland Local Plan 2014 and Paragraphs 155-161 of the NPPF.

Case Officer:

Team Leader:

Date:

Date:



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