

PLANNING COMMITTEE – 23 MAY 2017

APPLICATION NO DC/17/1186/FUL

LOCATION

Land And Building Adjacent The
Shrubbery
Clay Common
Frostenden
NR34 8BQ

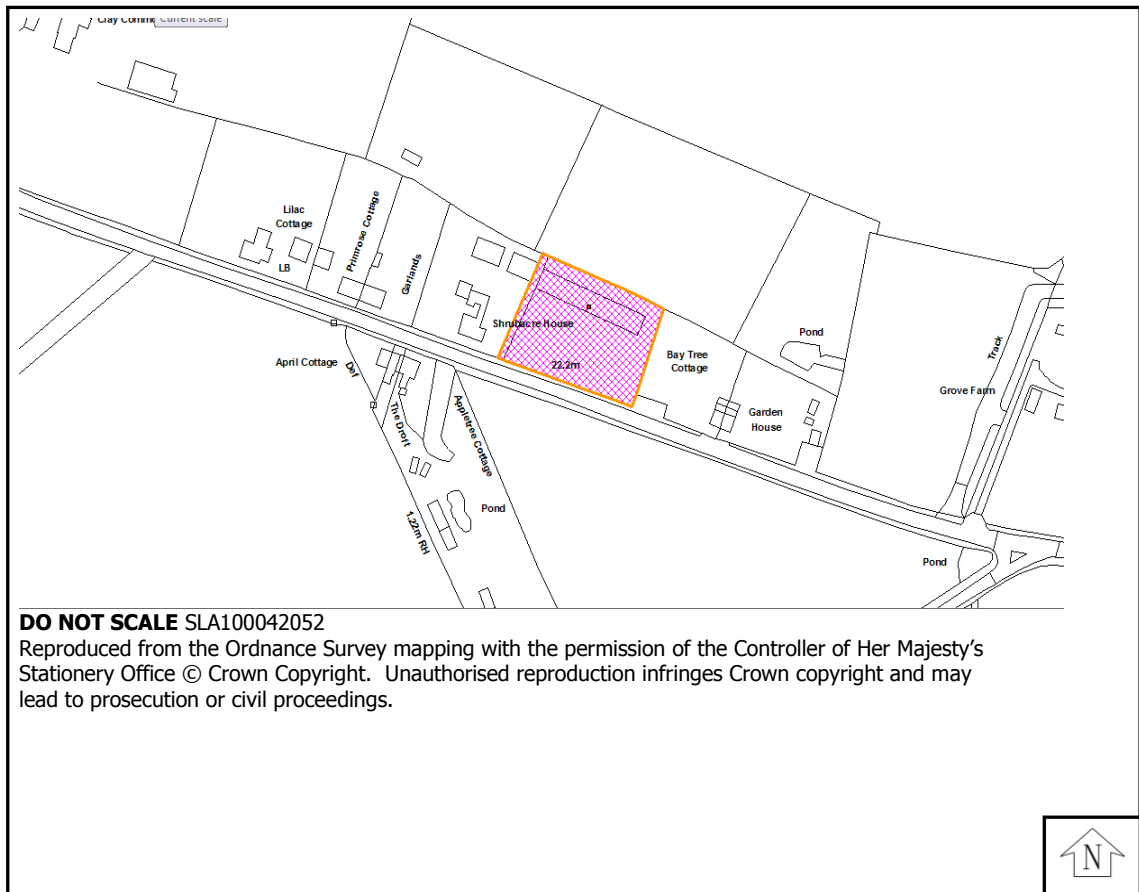
EXPIRY DATE 16 May 2017

APPLICATION TYPE Full Application

APPLICANT Tellus Property Ltd

PARISH Frostenden

PROPOSAL Construction of two detached dwellings, including change of use of land from agricultural to residential and demolition of existing agricultural building



SUMMARY

1.1 This application is for two houses at Clay Common, Frostenden; the site is considered to be “open countryside” in planning policy terms, and as such the proposal is contrary to policy.

- 1.2 However there is a recent “permission” for the conversion of existing buildings on the site to two dwellings under a “permitted development” prior notification, and there is an argument that the presently proposed scheme would be preferable visually and in terms of the accommodation provided.
- 1.3 The application comes before the Committee as it is contrary to policy.

SITE DESCRIPTION

- 2.1 The site is located on the north side of the road which runs from the A12 through to Stoven. It forms a somewhat overgrown site in a row of mainly detached houses which forms the hamlet of Clay Common.
- 2.2 There is a row of trees along the frontage of the site and a long single storey building, constructed as part of a rabbit breeding enterprise but vacant for a number of years, along the rear boundary.
- 2.3 The site has a frontage of 52 metres and a depth of 40 metres.
- 2.4 The site is not in a flood zone and there are no particular environmental constraints.

PROPOSAL

- 3.1 The proposal is to construct two four bedroom detached houses, of identical design but handed. The westernmost house would be set back 17 metres from the front boundary of the site and the easternmost house would be set back 14.5 metres. Each house would have a detached double garage. Materials would be red bricks and black stained weatherboarding for the walls with red clay pantiles for the roofs.

CONSULTATIONS/COMMENTS

- 4.1 **Neighbour consultation/representations:** no replies.
- 4.2 **Frostenden Parish Council Comments:** Approval recommended. Observations:
- 4.3 1. The “existing agricultural building” referred to contains a degree of asbestos in the construction. The former owners were quoted a figure of £25,000 in 2003 for the safe removal and disposal of the building. We would trust that Waveney are aware of this and proper supervision of the demolition process would be included in the conditions following any approval.
- 4.4 2. The drainage ditch at the rear (north boundary), which will be required to take domestic waste water from 2 families in the proposed new houses, must be dredged to ensure that it can cope with the new and additional loading. This whole area has recently been the subject of a Waveney and Suffolk Coastal drainage survey, following which a riparian landowner, very close to the piece of land in question here, was ordered to carry out drainage works.

Consultees

- 4.5 **WDC Environmental Health - Contaminated Land:** My comments remain as per the previous application (DC/16/5162/PN3). I would advise the LPA to impose a condition regulating the investigation and remediation of any contamination which may be encountered during development:
- 4.6 "In the event that contamination is found or suspected at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of the contamination on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.
- 4.7 Where remediation is necessary a detailed remediation scheme must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme must be carried out in accordance with its terms. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority."
- 4.8 **Suffolk County - Highways Department** were consulted on the 22 March 2017.
- 4.9 **Waveney Norse - Property and Facilities** were consulted on the 22 March 2017.
- 4.10 **Essex And Suffolk Water PLC:** I acknowledge receipt of your email letter dated 22nd March 2017 regarding the above.
- 4.11 Our records show that our existing apparatus does not appear to be affected by the proposed development.
- 4.12 We have no objection to this development subject to compliance with our requirements, consent is given to the development on the condition that a water connection is made onto our Company network for the new dwelling for revenue purposes.

PUBLICITY

None

SITE NOTICES

The following site notices have been displayed:

General Site Notice Reason for site notice: New Dwelling, Date posted 30.03.2017
Expiry date 19.04.2017

RELATED APPLICATIONS

Reference No	Proposal	Decision	Date
DC/16/5162/PN3	Prior Notification Application - Convert existing agricultural building to two semi-detached dwellings, within building's existing envelope.	Prior Notification	13/1/2017
DC/15/4880/COU	Change of Use of agricultural land to land for three mobile homes to be used as holiday accommodation, including demolition of existing building	Refused	9/3/2016
DC/07/1295/OUT	Outline Application - Construction of 5no. holiday homes	Refused Appeal Dismissed	29/8/2007

PLANNING POLICY

- 5.1 The Waveney Core Strategy was adopted in 2009. Relevant policies include CS01 which sets the Spatial Strategy for the District, CS02 which requires high quality and sustainable design and CS11 on housing.
- 5.2 The Development Management policies were adopted in 2011. Policy DM01 sets Physical Limits for settlements, DM02 sets design principles and DM22 deals with housing development in the countryside.

PLANNING CONSIDERATIONS

- 6.1 Local Plan policies are to concentrate new residential development in Lowestoft, the four Market Towns and seven of the larger villages. Other areas in the District, including Clay Common, are considered to be open countryside in planning policy terms, where there is a presumption against new residential development.
- 6.2 Policy DM22 sets out this presumption, but also includes some possible exceptions. One of these is "infilling". This part of the policy has two elements, a requirement for the site to be a small gap in an otherwise built up frontage and also to access to services and facilities. This application would potentially meet the first criteria but not the second; there are no shops or similar facilities in Clay Common and no public transport. In dismissing the appeal in 2008 the inspector agreed that this was not a sustainable location.
- 6.3 As such the proposal is clearly contrary to the Council's policies.

- 6.4 However there are other material considerations in this case. In particular consideration must be given to the planning history of the site.
- 6.5 The existing building on the site was granted permission as part of a rabbit breeding business in 1977. Subsequently planning permission for a single dwelling was refused in 2002. In 2007 permission was refused for 5 holiday homes and an appeal against this refusal was dismissed in the following year. More recently an application was refused for a similar proposal of three holiday homes in 2015.
- 6.6 However, in April 2014 the government introduced expanded “permitted development” rights for various types of development, including the change of use of agricultural buildings to dwelling houses – up to three dwellings can be created without the need for a planning application.
- 6.7 There are various criteria which must be met, and the applicant must “apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to
- a) Transport and highway impacts
 - b) Noise impacts
 - c) Contamination
 - d) Flood risk
 - e) Whether the location is impractical or undesirable, and
 - f) The design and external appearance.”
- 6.8 At the end of last year there was a proposal to convert the former rabbit breeding building to two semi-detached three bedroom bungalows using this “permitted development” right, with a “prior approval” application. Officers determined that the proposal met the criteria for being “permitted development” and imposed conditions on the access and contamination to deal with those issues. Development must be completed within three years of the prior approval date – 31st January 2017 in this case.
- 6.9 The buildings have not been used for rabbit breeding for at least 10 years – the 2008 appeal inspector noted that rabbit breeding had ceased – but there have been no intervening uses. The criteria allow the replacement of roofs or walls provided that the main structural elements of the building remain. However a further criterion is that the development cannot result in the external dimensions of the building extending beyond the existing building.
- 6.10 The existing building is single storey with a very shallow pitched roof. As it must, the proposed scheme has the same shape, although walls and roof are to be rebuilt. As such it cannot be said that the proposed building is of a design which is sympathetic to the character of the area, although its low overall height and position at the rear of the site does mean that it isn’t prominent in the street scene.
- 6.11 The present application proposes an alternative proposal to provide two dwellings on the site, in the form of two four bedroom detached houses set slightly further forward than the “approved” bungalows. The existing building would be removed under this proposal. The two houses would be more prominent in the street scene than the bungalows, but would be of a design which would be more sympathetic to the character of the area.

- 6.12 Essentially this application is being promoted as a more acceptable form of development for the site, with the “approved” scheme being the “fall-back” position should this application be refused.
- 6.13 Reference was made earlier in this report to the criteria for acceptable “infilling” set out in policy DM22. This site does meet the first criteria in that it represents: “the filling of a small undeveloped plot in an otherwise built-up and primarily residential frontage (usually a group of at least six properties). A small undeveloped plot is one which could be filled by one or two dwellings, where the plot sizes and spacing between dwellings is similar to adjacent properties and thereby respects the rural character and street scene of the locality.” There is a group of at least six properties here, predominately two storey dwellings. In addition there is support from the parish council. However it is clear that the development would not meet the second criteria of access to services and facilities, and two recent appeal decisions at Hulver and Henstead have seen the proposal dismissed on that ground alone.
- 6.14 The application is supported by an ecological appraisal which concludes that the habitats found on the site are of low to moderate ecological value and there are no significant ecological constraints which would prevent the development taking place.
- 6.15 The appraisal did however recommend further surveys for Great Crested Newts (GCN) in nearby ponds, and these have taken place. The findings are:
- 6.16 “The findings of the assessment are that a medium sized population of GCN is present in the locality, with two GCN breeding ponds located on neighbouring land within 50m. Five survey visits have been completed within the optimal survey period for GCN and a sixth visit is scheduled by mid-May 2017.
- 6.17 The terrestrial habitat within the proposed area of works is considered of moderate value for GCN, with areas of scrub, bases of tree lines, and log piles potentially offering suitable sites for commuting, resting and hibernating newts.
- 6.18 The proposed works are expected to cause damage and loss of GCN terrestrial habitats and involve a risk of injuring or killing individual newts potentially present within the site.
- 6.19 In order to be able to proceed with the proposed works and to ensure that no detrimental impacts will result on the species, a European Protected Species (“EPS”) Mitigation licence and an appropriate mitigation strategy will be required.
- 6.20 Mitigation measures to minimise the impact on GCN from the proposed development should include: a phased vegetation clearance; a temporary exclusion fencing with pitfall traps checked for a minimum of 30 nights; the translocation of animals caught to a suitable receptor site; a hand search of all suitable amphibian refuges present on the site; the removal of all suitable amphibian refuges affected by the works by hand outside the hibernating season for GCN; building materials to be raised from the ground on pallets; open trenches to be covered overnight, and alternative amphibian habitats to be created on the site to maintain habitat links. A detailed mitigation plan and method statement will be produced to support the licence application.”

- 6.21 In addition to mitigation for Great Crested Newts, other mitigation measures are recommended, included planting of new hedgerows, provision of bird boxes and timing of work. These could be provided using a planning condition if permission is granted.

CONCLUSION

- 7.1 This application is a matter of balance but it is clear that the application does not meet Local Plan policies. The change in legislation to allow the conversion of existing former agricultural buildings to dwellings as “permitted development” is a material consideration, but the Council cannot consider sustainability under the prior notification process. This process is a strict analysis of compliance with regulations. To the contrary under a planning application the matter is considered against both local and national planning policy. The assessment of sustainability is said to be a “golden thread” running through the NPPF. The fallback position will allow for two dwellings on this site, this application would result in a more prominent form of development in an otherwise unsustainable location. On this basis the fallback position of the more modest conversion of the buildings under the prior notification process is the preferred position. The harm arising from the proposed two dwellings is demonstrably unacceptable and is locationally unsustainable. Even with allowance for a marginal contribution to the council’s five year Housing supply the “planning balance” is a negative one.
- 7.2 On balance the application is recommended for refusal.

RECOMMENDATION

That permission is refused for the following reason:

1. The Waveney Core strategy policy CS01 states that most new residential development will take place in Lowestoft, the four market towns and seven of the larger villages. Outside these locations development will be regarded as being in the open countryside where the objective is to preserve the countryside for its own sake. Development Management policy DM22 restates this presumption against new residential countryside and whilst it includes some potential exceptions the site would not meet the criteria on access to services and facilities which would allow the development to meet the criteria for infilling – in 2008 in dismissing an appeal the inspector stated that Clay Common was not a sustainable location. Whilst existing buildings could be converted to dwellings under “permitted development” that would result in a development that would be considerably less prominent in the street scene. As such the development would be contrary to Local Plan policies as it would take place in an unsustainable location.

BACKGROUND INFORMATION:

See application ref: DC/17/1186/FUL at www.eastsuffolk.gov.uk/public-access

CONTACT

Richard Amor, Team Leader (North Area), (01502) 523018, richard.amor@eastsuffolk.gov.uk