

Committee Report

Item No: 3

Reference: DC/18/02970

Case Officer: Alex Scott

Ward: Palgrave

Ward Member/s: Cllr David Burn

RECOMMENDATION – GRANT PLANNING PERMISSION WITH CONDITIONS

Description of Development

Application under Section 73 of the Town and Country Planning Act for variation of Condition 5 (Estate Road junctions and splays) relating to DC/17/03027 (Erection of petrol filling station, restaurant and drive-thru takeaway). The variation is for the removal of the requirement of access works prior to any other works and to change this to prior to the permitted use being implemented.

Location

Land at Scole Roundabout, North of A143 and to West of A140, Stuston

Parish: Stuston

Expiry Date: 24/08/18

Application Type: FUW - Full App Without Compliance of Condition

Development Type: Minor – Variation of Condition

Applicant: Mr West

Agent: Mr Nigel Ozier, Aitchison Raffety

PART ONE – REASON FOR REFERENCE TO COMMITTEE

The application is referred to committee for the following reason/s:

The Head of Economy considers the application to be of a controversial nature having regard to the planning reasoning expressed by the Parish Council and the extent and planning substance of comments received from third parties, the case history, and the location, scale and nature of the application.

Details of Previous Committee / Resolutions and any member site visit

DC/17/03027 - Full Planning Application - Erection of petrol filling station and associated sales building, restaurant and drive-thru takeaway and associated works; construction of new vehicular access from A140 and exit to A143 – Granted by Committee on 06.06.2018

PART TWO – POLICIES AND CONSULTATION SUMMARY

Summary of Policies

National Planning Policy Framework (NPPF) – Adopted July 2018

Mid Suffolk Core Strategy Focused Review – Adopted December 2012

- Policy FC1 Presumption in favour of sustainable development
- Policy FC1.1 Mid Suffolk approach to delivering sustainable development
- Policy FC3 Employment

Mid Suffolk Core Strategy – Adopted September 2008

- Policy CS5 Mid Suffolk's environment
- Policy CS6 Services and infrastructure
- Policy CS12 Retail provision

Mid Suffolk District Local Plan (Saved Policies) – Adopted 1998

- Policy GP1 Design and layout of development
- Policy H16 Protecting existing residential amenity
- Policy CL2 Development within Special Landscape Areas
- Policy E12 General principles for location, design and layout of industrial and commercial development
- Policy S10 Convenience goods stores
- Policy S13 Ancillary retail uses
- Policy T6 Petrol filling stations and other roadside services
- Policy T10 Highway considerations in development

Other Relevant Documents

- Department for Transport Circular 02/2013: The Strategic Road Network and the Delivery of Sustainable Development sets out in Annex B details for the provision of roadside facilities on motorways and all-purpose trunk roads in England.

Consultations and Representations

During the course of the application Consultation and Representations from third parties have been received. These are summarised below.

A: Summary of Consultations

Stuston Parish Meeting – Concerns Raised:

- Concerns as to the safety risk of construction traffic using the existing access from the A143 as proposed;
 - Meeting Chairman has visited the site and driven onto the site from the A143 using the proposed access;
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- The access to the site from the A143 is only 50 yards (45.72 metres) from the roundabout at the junction of the A143 and the A140 and is on a bend with no line of sight whatsoever of traffic arriving at the roundabout from the west;
- Meeting Chairman drove onto the site and attempted to exit with the intention of turning left towards the roundabout. Oncoming traffic travelling at speed from the Bury St Edmunds direction has at best 15 to 20 yards (13.716 to 18.288 metres) of line of site of the exit from the access way to the site. This is an accident waiting to happen and as such this access way must not be allowed to be used by construction traffic accessing and exiting the site;
- The Chairman of the Diss and District Neighbourhood Plan Steering Group, on behalf of the group, has in the past few months expressed real concern as to the safety issues relating to accessing and exiting this site;
- It would appear that concerns have been ignored and there is now a proposal prior to the construction phase to use an access way to the development site which is guaranteed, if allowed to go ahead, to constitute a very real safety risk;
- Urge a site visit by whoever is responsible for approving this development to see first-hand the associated risk and demand that the developers find an alternative access way to the site.

Scole Parish Council – Strongly Objects to this application on the grounds of road safety and believes that it should not be possible for the District to waive compliance of what is effectively a national road safety policy:

- This is the proposed Application under Section 73 of the Town and Country Planning Act for variation of Condition 5 (Estate Road junctions and splays) relating to DC/17/03027 (Erection of petrol filling station, restaurant (sic) and drive-thru takeaway (sic)). The variation is for the removal of the requirement of access works prior to any other works and to change this to prior to the permitted use being implemented;
- Conditions 3 and 5 imposed on the original application (DC/17/03027) requires that the first thing to happen on site is the construction of the estate road junctions with cleared sight splays. This is obviously to ensure the safety of both drivers of construction HGV's entering and exiting the site and that of traffic passing on the busy A roads that the site sits adjacent to;
- It beggars belief that whilst the District Council requires a safe exit from the site onto the highway once the development is complete, it does not require the same during construction. We would argue that this is the most dangerous time, when the passing traffic has not even got used to the sites existence;
- The site entrance is on the inside of a long bend with high hedging adjacent to the carriageway. Thus, drivers, approaching the site have limited visibility of any traffic emerging from the site. Also, traffic trying to exit the site has to partially enter the highway to check whether there is any oncoming traffic. This emerging traffic will be typically of HGV type and thus the possibility of an accident occurring would be reasonably high;
- Point out that as there are no submitted drawings of the visibility splays with dimensions, how is it possible for the District Council to assess the risk?;
- Should the application for relaxation of compliance be approved then Scole Parish Council would hold the District Council and specifically any named officer, liable for any accident, injury or death caused by lack of suitable and safe ingress and egress from the site.

SCC Highways – No objection subject to construction management being agreed.

Highways England – Do not wish to make further comment as the application has no relevance to the strategic Road Network.

BMSDC Economic Development – Have no comment to make.

Environment Agency – Do not wish to make comment.

B: Representations

15 representations raising concern or objection have been received. Comments are summarised as follows: have been received.

- The application appears to use a consultant who has not had a site visit. As can be seen from Google maps and from other consultee comments, there are mature shrubs and trees in age of approximately 15 years old or older. These are also looked after by the residents on the adjacent sides. The trees and mature shrubs have been planted there to ensure that noise is kept to a minimum for passing traffic that may affect the residential properties. The visibility is not that of what the proposed view would provide as the majority if not all trees and shrubs would need to be cut down. This is in contradiction to conversations previously had between MSDC and an objector.
 - There is no safe entrance from the west side for slow moving traffic as the roads are 60 mph. A variety of accidents have already occurred due to speed and the fact a roundabout comes up very quickly on a long bend with queuing traffic.
 - It is noted that this application is in contradiction to the Committee decision where conditions were already placed.
 - Assume the initial application would again be reviewed due to conditions being revised.
 - The A140 is a very dangerous road and the proposal would increase the likelihood of accidents.
 - The applicant states that the original condition (to ensure a safe exit from the site is in place before any construction work starts) would cause it an undue burden. How can this be for a major company (BP) as the cost is minimal compared to the overall development.
 - Proposal would result in greatly increased hazards from HGVs exiting on a bend before any sighting improvements, road markings or signage are put in.
 - During construction a significant number of vehicles will need access on a daily basis, much of it heavy construction plant. It is therefore imperative that the improvements demanded to the road junctions are completed prior to construction beginning.
 - The only reason for the proposal is to save costs for the developer and no planning department should accept this as a reason for making a decision that is illogical, wrong and potentially dangerous to road users.
 - The roads approaching and leaving the roundabout are often very busy therefore activities during construction work on or close to the road verge in the approach and exit to the roundabout will comprise road safety and the condition should be retained.
 - Concern with regards the additional traffic created, particularly at peak times.
 - Concern with regards increased air pollution due to increased traffic at the road junction.
 - The proposed slip road and exit in effect turn the heavily travelled A140 and A143 junction roundabout into the south west part of a figure 8. An already congested roundabout thereby becomes more so, as, in effect, a fifth road and ninth direction are added.
 - No effective safe pathways for people to approach facilities.
 - Wider proposal would destroy the rural approach to the County which attracts valuable tourism and sends the wrong message of a tranquil and peaceful area to holiday in which we all value so much.
 - Question whether the applicant has full ownership of all the land involved. If not, consider this should be secured before any works are carried out.
 - Concern with regards light pollution and intrusion of wider development on wildlife and ecosystems – impact on rare bat populations specified.
 - Should tree screening be removed during construction – concern with regards the negative visual impact the wider proposal would have.
 - Concern with regards the amount of waste and litter created by the wider development.
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- Concern with regards potential pollution from toxic substances with regards the wider development.
- Concern with regards the wider development's impact on the wildlife in the area.
- Concern with regards precedent the proposal would set if approved.
- Concern with regards consultations that have been carried out with regards other applications on the site – this has seriously restricted the public in responding – accuse the planning department of being underhand.
- Will ensure any accidents or claims are presented to the MSDC planning officer on a personal liability basis if he allows this variation.
- Concern with regards the wider development's negative effect on local businesses.
- Concern that no provision was made within the wider development for employees to park their cars – Concern that this would result in increased on-street parking in the nearby village of Scole.
- Aesthetically the whole development with illuminated signage will only blight the countryside.
- Concern that the main development (application ref: DC/17/03027) was granted despite objections from local people – allege that the Council is more concerned with pandering to multi-national businesses than it is with protecting the environment and the interests of local people.
- Concern with regards the smell and odour impact relating to the whole development.
- Disappointing that Councillors and Council employees have favoured the demands of big corporations rather than the local community which pays their expenses and wages.
- Consultation letters did not say what Condition 5 was and it took a lot of searching to find out.
- Multiple applications for similar developments in the area close to the A140/A143 roundabout in the past have been refused. What has changed?
- Diss and District Neighbourhood Plan Steering Group strongly objects to this application on the grounds of it being extremely prejudicial to highway safety and contrary to national policy regarding the provision of visibility splays for accessing adjoining a highway, in this case a well-trafficked but unlit 'A' class road subject to the national speed limit that carries over 14,000 vehicles a day past the site access.

PART THREE – ASSESSMENT OF APPLICATION

1. The Site and Surroundings

- 1.1. The application site incorporates 1.45 hectares of land adjacent to the roundabout marking the intersection of the A143 and A140. These roads form key transport links between Ipswich and Norfolk in a north/south direction and Lowestoft and Bury St Edmunds/Thetford (via the A1066) in an east/west direction.
- 1.2. The site is located to the north-west of this roundabout and is approximately 350 metres south of Scole, a village located within Norfolk. It forms part of a cluster of development along the A143, which includes residential properties, holiday chalets and a golf complex to the west. The site is an arable parcel of land which is largely enclosed by boundary hedges and trees, most which appear to be self-seeded. It is roughly level and is served by a field access onto the A143 to the south.

2. The Proposal

- 2.1. The application seeks to vary condition 5 of host planning permission ref: DC/17/03027, which granted full planning permission for: the erection of petrol filling station and associated sales building; a drive through restaurant takeaway and associated works; and construction of new vehicular access from A140 and exit to A143, in June 2018.

2.2. Condition 5 of planning permission ref: DC/17/03027 reads as follows:

“The new estate road junction(s) to the existing highway, inclusive of cleared land within the sight splays to the junction(s) must be formed prior to any other works commencing hereby approved and there shall be no deliveries of materials to the site, other than those associated with the development of the access, until such time as the approved junction is formed and available for use.”

2.3. The application proposal seeks to vary condition 5 of planning permission ref: DC/17/03027 to require the proposed new access and egress to be formed and completed prior to commencement of the permitted use, rather than prior to the commencement of any other works, as is the existing situation. It is proposed to use the existing agricultural field access to the site, onto the A143, during the construction phase of development.

2.4. The applicant considers the existing condition places an undue burden on the applicant to from an access to the necessary standard prior to the building works on the site having been completed. The applicant states that in order for the site to be developed in an efficient manner, all elements of the proposed development will be commenced, utilising the various contractors on site.

2.5. It is proposed to vary condition 5 of planning permission ref: DC/17/03027 to read as follows:

“The proposed development shall not be operated until the new estate road junction(s) to the existing highway, inclusive of cleared land within the sight splays to the junction(s) have been formed.”

3. Site Access, Parking And Highway Safety Considerations

3.1. The applicant identifies that the A140 and A143 are not identified as trunk roads but perform important roles in linking settlements in an east/west and north/south direction. The A143 runs between Bury St Edmunds and Great Yarmouth/Lowestoft, whilst also connecting into the A14 for travel further westwards. The A140 runs between Ipswich and Norwich, the two key settlements in Suffolk/Norfolk. Although neither currently form trunk roads (the A140 was de-trunked in the 1990s), both form busy connecting routes which operate in a similar manner to trunk roads. The application of the trunk road guidance can therefore be appropriately used in consideration of service areas along these highway routes, a situation supported by appeal decisions that the applicant has included within their submitted documents. Your Officers have assessed these decisions and consider that the applicant's appraisal of the relevant points is correct and, therefore, their assessment can be relied upon in reaching a decision on this proposal.

3.2. Paragraph 108 of the National Planning Policy Framework (NPPF) (2018) states, inter alia, that in assessing specific applications for development it should be ensured that: safe and suitable access to the site can be achieved for all users; and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

3.3. Furthermore, paragraph 109 of the NPPF (2018) provides that development should only be prevented or refused on highway safety grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

3.4. Policy T10 of the Mid Suffolk Local Plan (1998) provides, inter alia, that when considering planning applications for development, the district planning authority will have regard to the following:- The provision of safe access to and egress from the site; The suitability of existing roads giving access to the development, in terms of the safe and free flow of traffic and pedestrian safety; Whether the amount and type of traffic generated by the proposal will be acceptable in

relation to the capacity of the road network in the locality of the site; and The provision of adequate space for the parking and turning of cars and service vehicles within the curtilage of the site.

- 3.5. The application proposes to vary condition 5 of host planning permission ref: DC/17/03027 to ensure construction of the access to the site (via the A140) and egress from the site (to the A143), as approved by this permission, prior to first use and operation of the development. Access to and egress from the site during the construction phase of the development would, therefore, be via the existing site access via the A143, to the south of the site.
- 3.6. Should the application be approved it would result in the short term use of the existing access by construction vehicles, during the construction phase of development only. The proposed amended condition would still require completion of the approved means of access to and egress from the site, prior to first use/operation.
- 3.7. The existing access to the site is already in place and could potentially be used by agricultural and other vehicles wishing to access. The existing access, therefore, already has an impact in this regard and is considered to be a material consideration in determination of this application.
- 3.8. Should the proposed use of the existing access during the construction phase of development be appropriately mitigated as part of an acceptable construction management plan (which shall include measures for construction traffic management and operating hours, and measures to prevent mud from vehicles leaving the site during construction) then the proposal is not considered to result in an unacceptable or severe impact on existing highway safety, as per the requirements of the aforementioned planning policy.

4. Other Issues

- 4.1. The current proposal is not considered to alter your officers' assessment of the other material planning considerations, considered as part of the original approval (planning permission ref: DC/17/03027).

PART FOUR – CONCLUSION

5. Planning Balance and Conclusion

- 5.1. The proposal is considered to have limited short-term economic benefits in the construction phase of development in the employment of contractors and the ability to work collectively on all aspects of the development.
- 5.2. The proposal is considered to have limited social benefit during the construction phase of development, enabling the simultaneous construction of both the access and egress and the remainder of the site, resulting in swifter construction and less disruption and inconvenience to highway users.
- 5.3. Should the construction phase of development be appropriately managed by way of an agreed construction management plan then the proposal is considered to have a neutral environmental impact when compared to the existing approval, most specifically in relation to the issue of highway safety.

5.4. For these reasons, it is considered that the proposal meets the aims of the development plan and the NPPF as a whole and should therefore be approved.

RECOMMENDATION

That authority be delegated to Corporate Manager - Growth & Sustainable Planning to grant full planning permission subject to conditions including:

- Amended condition with regards the timeframe for provision of the approved new access and egress to the site (as suggested in paragraph 2.5 above)
- Approval of a construction management plan prior to commencement of development and implementation of said plan during construction
- All other conditions as applied to host planning permission ref: DC/17/03027.