

## **Committee Report**

**Item No: 7B**

**Reference: DC/20/04296**

**Case Officer: Bron Curtis**

**Ward: Stonham.**

**Ward Member/s: Cllr Nicholas Hardingham**

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## **RECOMMENDATION – REFUSE PLANNING PERMISSION**

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### **Description of Development**

Planning Application – Continued use of land for the stationing of 18 holiday lodges

### **Location**

Stonham Barns, Pettaugh Road, Stonham Aspal, Stowmarket Suffolk IP14 6AT

**Expiry Date: 27/11/2020**

**Application Type: FUL - Full Planning Application**

**Development Type: Change of Use**

**Applicant: Stonham Barns Ltd**

**Agent: Phil Cobbold Planning Ltd**

**Parish: Stonham Aspal**

**Site Area: 0.48ha**

**Has a Committee Call In request been received from a Council Member (Appendix 1): No**

**Has the application been subject to Pre-Application Advice: No**

### **Introduction**

This application was referred to the Planning Committee on 20<sup>th</sup> January 2021 with an officer recommendation to grant conditional planning permission.

The Planning Committee were minded to refuse the application for reasons of unacceptable visual and landscape impact. The Committee resolved to defer determination of the application until such time as further advice on the risk of such a refusal and independent landscape advice are available.

That information has been received and is presented in this report. Accordingly, the application is now referred back to the Planning Committee.

Mindful that members of the Planning Committee have changed since the previous meeting, this report provides a full assessment of the application proposal as well as responding to the deferral instructions.

The report and recommendation have also been updated to take account of the current development plan which has changed since the previous Committee meeting.

Since the receipt and initial assessment of the application some of the caravans have been sited on the land. The description of development has been changed to reflect the current status of development on the site.

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## **PART ONE – REASON FOR REFERENCE TO COMMITTEE**

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The application was referred to committee on 20<sup>th</sup> January 2021 and was deferred for the following reason/s:

That Committee are minded to refuse the application on the grounds that the development would fail to represent good design, would not create a better place in which to live and work for the whole community of the area and would not improve the character and quality of the area. The site is clearly visible from public vantage points and moreover the public are able regularly to be present on the Stonham Barns site to use and experience its facilities and environment. Having regard to this visibility the lodges proposed are uniform in design and spacing, the layout is linear and the development extends into open countryside that is flat and lacks topographical relief. The landscaped bunds look manmade as though they are trying to segregate rather than assimilate the site into its landscape setting and the landscape planting has yet to have any measurable impact upon views of the proposal. The lodges would be viewed as a stark man-made addition to the open and rural character of this countryside setting that would harm the character and appearance of the landscape.

On this basis the development would be contrary to policies GP1 and RT17 of the MSDC LP 1998 and contrary to paragraph 126 and 130 of the NPPF February 2021.

And that the Chief Planning Officer be instructed to review and risk assess the proposed reason for refusal and concurrently seek independent landscape and design advice on the following matters ;

[a] the visual impact of the development upon the landscape character and appearance of the proposal in its context having regard go to policies GP1 and RT17 of the Local Plan and

[b] the extent to which the design and layout of the proposal takes the opportunities available for improving the character and quality of an area and the way it functions having regard to paragraphs 126 & 130 of NPPF

\*Please note the policies cited were those in force at the time of the Committee meeting and resolution to defer.

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## **PART TWO – POLICIES AND CONSULTATION SUMMARY**

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### **Summary of Policies**

NPPF - National Planning Policy Framework  
SP03 - The sustainable location of new development  
SP09 - Enhancement and Management of the Environment  
LP13 - Countryside Tourist Accommodation  
LP15 - Environmental Protection and Conservation  
LP16 - Biodiversity & Geodiversity  
LP17 – Landscape

LP27 - Flood risk and vulnerability  
LP29 - Safe, Sustainable and Active Transport

### **Neighbourhood Plan Status**

This application site is not within a Neighbourhood Plan Area.

### **Consultations and Representations**

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

[Click here to view consultee comments online](#)

### **A: Summary of Consultations**

#### **Parish Councils (Appendix 3)**

Stonham Aspal PC: OBJECT

- Development falls outside of the area previously agreed under the Master Plan for Stonham Barns.
- Would add pressure on local facilities and the road network.
- Query whether there is utility capacity to support the development.
- Healthcare is difficult to access in the area and the school is nearly full.
- Occupation of holiday units must be effectively controlled.
- There is no restriction on the fuel consumed by these types of accommodation,

Crowfield PC: OBJECT

- Ugly, creeping development that should not be permitted without adequate screening.
- Occupation must be adequately controlled.

Pettaugh PC: NO RESPONSE RECEIVED

#### **National Consultees (Appendix 4)**

Natural England: COMMENTS

- Refer to standing advice.

#### **County Council Responses (Appendix 5)**

SCC – Highways: COMMENTS

- No harmful impact on congestion, safety or parking as traffic is unlikely to be travelling at peak times.

SCC - Fire & Rescue: COMMENTS

- Must comply with Building Regulations or equivalent standards.
- Recommend use of open water for fire fighting.

SCC – Floods: OBJECT

- Holding objection due to insufficient information

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## **Internal Consultee Responses (Appendix 6)**

Environmental Health - Land Contamination: NO OBJECTION

Environmental Health - Noise/Odour/Light/Smoke: NO COMMENTS

## **B: Representations**

3 online comments have been received. The comments are summarised below:

- Overdevelopment
- Concerns regarding inappropriate occupation.
- Utilities can't cope with additional development.
- Caravans use LPG. If it were a housing development significant upgrading would be required to achieve minimum standards to comply with climate emergency policy.
- Fire concern given distance of hydrant.
- More caravans would have more environmental issues
- Increased traffic on a busy road.
- Noise from events.
- Loss of privacy due to people exercising and dog walking on the field.

## **PLANNING HISTORY**

<b>REF:</b> DC/20/01438	Full Planning Application - Change Use of land for the stationing of 5 holiday lodges	<b>DECISION:</b> GTD
<b>REF:</b> 3150/15	Hybrid application (full & outline planning permission). I. Variation of condition 2 of planning permission 655/02 to enable the existing showground (area outlined in yellow on the submitted plan) to operate between the hours permitted by the Licence granted by the Council on 10/10/2014; II. Outline planning for erection of new building as an indoor child play area (Class D2) on land adj to building No 24; III. Retention of a single storey extension to Unit 11 (Class A1); IV. Retention of retail pods (Class A1/A2/B1) in market square (buildings labelled A, B, C, D, E, PC7(G), PC5(E), PC4(D), PC1,2,3,4,5,6,7 (A,B,C) and PCF6(F) on submitted plan; V. Use of land for stationing of 51 static caravans for holiday use on land adj to west of dog training area (Identified as R1 to R51 on the submitted plan). VI. Use of land for stationing of 34 static caravans for holiday use (owner occupied) subject to restriction preventing occupation for one month of the year, on land west of Meerkat enclosure (identified as units 0 to 33 on the submitted plan); VII. Continued use of land for touring caravans (area outlined as orange on the submitted plan); VIII. Continued use of land as extension to the existing showground and/or for use as touring caravan site; IX. Continued use of land for car boot sales on Sundays (taking place at Car Park A, car Park B or the showground); X. Repositioning of earth bund on northern side of existing fishing lake No 1; XI. Use of land adj for stationing of 76 holiday lodges (owner occupied) with no occupation for one month of the year (identified as LO1 to LO45 and LO57 to LO86 on the	<b>DECISION:</b> GTD

submitted plan); XII. Use of land for stationing of 11 holiday lodges for rental (Lodges LO46 to LO56); XIII. Retention of alterations to existing field shelters to form stables; XIV. Use of land as Car Parks A & B and extension to hardstanding; XV. Retention of alterations and extension to permanent marquee on the showground to form events barn; XVI. Landscaping

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## **PART THREE – ASSESSMENT OF APPLICATION**

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### **1. The Site and Surroundings**

- 1.1. The application site extends to approximately 0.14 hectares and comprises an existing arable field located adjacent to the eastern side of the Stonham Barns leisure and tourism complex, in the countryside between the villages of Stonham Aspal and Pettaugh. Access is from the A1120 highway, through the Stonham Barns complex.
- 1.2. The siting of the caravans is on part of the existing field, adjoining an existing group of holiday caravans arranged around two sport fishing lakes.
- 1.3. There is a mature roadside hedge along the A1120 and landscaping to the boundaries of the Stonham barns site. There are no residential dwellings in the immediate vicinity of the application site, the nearest being Bramley Hedge, approx. 500m to the west, separated from the site by parts of the existing Stonham Barns complex
- 1.4. The site is not in or near an area designated for special landscape significance, e.g. Special Area of Conservation, Special Landscape Area, or AONB. There are no listed buildings within the immediate vicinity of the site, the nearest being Bramley Hedge, approx. 500m to the west, separated from the site by parts of the existing Stonham Barns complex.
- 1.5. The site is located in Flood Zone 1 and is classified as grade 3 agricultural land.

### **2. The Proposal**

- 2.1. The application seeks full planning permission for the continued use of land for the siting of 18 holiday lodges.
- 2.2. The lodges fall within the legal definition of caravan for planning purposes meaning that they are a use of land rather than individual buildings.
- 2.3. The caravans will be positioned at the end of a roadway serving a complex of existing caravans close to the fishing lakes area of Stonham Barns.

### **3. The Principle Of Development**

- 3.1. The starting point for determination of any planning application is the development plan, as identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004. Determination of any application must be made in accordance with the plan unless material considerations indicate otherwise. A key material consideration regarding the principle of development is the National Planning Policy Framework (NPPF).

- 3.2. At the previous Committee meeting the development plan comprised the saved policies of the Mid Suffolk Local Plan 1998, Core Strategy 2008 and Core Strategy Focussed Review 2012. The Committee resolution therefore refers to policies of those documents as well as the NPPF. On 19th September 2023, Babergh and Mid Suffolk District Councils received the Inspectors' report on the examination of the Joint Local Plan. The Inspectors have concluded that, subject to the recommended modifications, the Plan is sound. On 20<sup>th</sup> November 2023 members of Mid Suffolk District Council voted to adopt the Joint Local Plan which is the development plan in force at the date of this meeting / decision, replacing the Local Plan, Core Strategy and Core Strategy Focussed Review.
- 3.4. The following policies from the JLP are relevant to the application:
- SP03 - The sustainable location of new development
  - SP09 - Enhancement and Management of the Environment
  - LP13 - Countryside Tourist Accommodation
  - LP15 - Environmental Protection and Conservation
  - LP16 - Biodiversity & Geodiversity
  - LP17 – Landscape
  - LP27 - Flood risk and vulnerability
  - LP29 - Safe, Sustainable and Active Transport
- 3.5 SP03 carries forward the settlement boundaries previously defined by the Local Plan and Core Strategy. The application site remains in the countryside for planning purposes under the JLP.
- 3.6 SP09 requires development to conserve, enhance and manage the natural and local environment with specific requirements for protected habitats and biodiversity net gain. This policy recognises the national direction of travel towards BNG as a statutory requirement.
- 3.7 LP13 states that, in the countryside, tourist accommodation will be considered on an exceptional basis only and must also comply with other relevant policies. Such development proposals must demonstrate an overriding business need to be in that location, be sympathetic to the character of the area and be accessible by a range of transport modes. In addition, proposals to extend or upgrade tourism facilities must provide a balanced mix of economic, social and environmental benefits and such development may be controlled by conditions.
- 3.8 LP15 requires proposals to demonstrate prioritisation of the use of previously developed land and the avoidance of use of BMV land, to address land contamination and in stability, prevent and mitigate pollution, avoid significant adverse amenity impacts and protection of ground and surface water features.
- 3.9 LP16 requires development proposals to protect and improve biodiversity and geodiversity including a requirement of a minimum of 10% BNG. This policy largely reflects the objectives of existing development plan policies, recognising the direction of travel towards BNG as a statutory requirement.
- 3.10 LP17 requires development proposals to conserve and enhance landscape character and, where significant landscape or visual impacts are likely to occur, provide an LVIA.
- 3.11 LP27 requires new development to demonstrate that it will be safe for its lifetime without increasing the risk of flooding elsewhere and that mitigation of flood risk impacts, including

surface water drainage schemes and betterment of greenfield runoff rates are provided where possible.

- 3.12 LP29 requires all development to demonstrate safe and suitable access, prioritising sustainable and active transport, be informed by the relevant parking guidance, with adequate access for servicing and emergency vehicles. Where developments are likely to cause a significant increase in transport movements applications must include a transport statement and transport assessment if appropriate and a travel plan informed by the relevant County / National guidance. Impacts on highway safety must not be unacceptable and the residual cumulative impacts on the road network must not be severe.
- 3.13 The principle of development is supported by the development plan on an exceptional basis only, where there is a demonstrated overriding business need and impacts are acceptable. The applicant has been invited to respond to the JLP for this application and has declined to provide such information. As there is no overriding business need demonstrated within the submitted documents, there is not considered to be any exceptional basis for supporting the proposed development such that the proposal is in conflict with LP13 of the JLP. An assessment of the impacts of the development in respect of individual issues follows.

#### **4. Access to services and facilities**

- 4.1. The application site is situated in the countryside between the Secondary village of Stonham Aspal and the Countryside village of Pettaugh.
- 4.2. The development will operate as an extension to the existing holiday caravans at the fishing lakes and part of the wider Stonham Barns leisure and tourism complex, which has a range of services and facilities to support a holiday use as proposed. The site is accessed from the A1120, a designated tourism route, and there is a bus stop close to the site entrance. SCC are in the process of delivering a footway from the site towards the village of Stonham Aspal. The site is considered to be reasonably available by a range of transport modes, having regard to its countryside location.
- 4.3. Some concern has been raised regarding the impact on utilities and the nature of fuel requirements for caravans. Stonham Barns have their own boreholes for water supply. UKPN are the local electricity distributor and officers have confirmed that there is sufficient capacity within the distribution network to serve the development. Most modern caravans have either electric convection heaters or gas / electric hot water boilers serving radiators. This is not dissimilar to new housing development and there is no policy reason to refuse the development on this basis.
- 4.4. The development is likely to support the ongoing viability and employment generation of the business operations at Stonham Barns which is recognised as a principal attraction in the area that makes a significant contribution to the rural economy of this part of the district. However, the application documents do not include specific details of the overriding business need for the development, as required by LP13.
- 4.5. Although the site is in a countryside location which would usually be considered unsustainable, the range of services within the Stonham Barns complex that are available to support a tourism use and the day trip / attraction visiting nature of tourism operations are material considerations. Furthermore, the proposal would make a recognisable contribution to the economic development of the existing complex.

- 4.5. On the basis of the above there is not considered to be grounds to refuse the application for reasons of unsustainable development.

## **5. Access, Parking And Highway Safety Considerations**

- 5.1. Policy LP29 requires all development to demonstrate safe and suitable access, prioritising sustainable and active transport and to be informed by the relevant parking guidance. This reflects paragraph 108 of the NPPF which requires development proposals, incorporate safe and suitable access that can be achieved for all users.
- 5.2. Vehicular access to the application site is from the A1120 highway via the main entrance to the Stonham Barns complex which serves an existing area of turning and parking for the fishing lakes and associated caravans, which have car standing spaces. There are no proposed changes to the access or the on-site parking and turning arrangements.
- 5.3. Suffolk County Council Highways Authority have been consulted and advise that they consider the proposal would have no impact on highway congestion, parking or safety.
- 5.4. On the basis of the above there is not considered to be any unacceptable impact on highway safety.

## **6. Design, Layout and Landscape Impact**

- 6.1. Development Plan policies and the NPPF require consideration of the aesthetic impacts of development including the appearance and layout of the structures proposed and the overall impact of the scheme on the surrounding landscape.
- 6.2. The proposal is for 18 additional caravans to be sited adjacent to the cluster of existing caravans that are positioned around the two fishing lakes. The application site projects into an existing area of grassed arable land that is partly screened from public views by existing landscape planting and a mature hedge along the A1120.
- 6.3. The new caravans will be of similar scale and appearance to the existing caravans arranged around the fishing lakes. The additional 18 caravans will be sited on land directly adjacent to the existing complex, laid out as an extension to that facility. The submitted plans show the additional 18 caravans will bring the total number of caravans in the fishing lake area of the site to 96.
- 6.4. The proposed caravans will be visible from public vantages, most prominently from the public highway and some concerns have been raised regarding the visual impact of the development. The siting and appearance of the 18 additional proposed caravans is such that they will be experienced in context with the adjacent complex of caravans and the visual impact of the extension will be homogenised as part of the wider complex. There is some existing landscaping that will screen some views and conditions can secure further landscaping to mitigate the visual impact of the development.
- 6.5. The development will extend the complex of holiday caravans into the adjacent field and will result in an increased visual impact on the surrounding landscape. However, the design, layout and additional screening that can be controlled are such that the visual impact of the proposal is not considered to be unacceptable.

## **7. Other Matters**



- 7.1. There are no residential properties within the immediate vicinity of the application site such that there is no unacceptable impact of the development on residential amenity.
- 7.2. There are no heritage assets within the immediate vicinity of the application site such that there is no unacceptable impact of the development on heritage.
- 7.3. The land is located in Flood Zone 1. LP27 requires new development to demonstrate that it will be safe for its lifetime without increasing the risk of flooding elsewhere and that mitigation of flood risk impacts, including surface water drainage schemes and betterment of greenfield runoff rates are provided where possible. The application documents include a flood risk assessment but the SCC Floods team advise that the information provided is insufficient to assess the flood risk impacts of the development. The applicant has declined to provide further information.
- 7.4. There are no recordings of protected species or their habitats within the site or likely to be affected in the immediate area. It is highly unlikely that any protected species would be found within this site and as such this proposal is not considered to be harmful in terms of biodiversity issues.

### **8. Parish Council Comments**

- 8.1. Stonham Aspal Parish Council raise concerns relating to the principle of the development as it is located outside the area of a previous comprehensive permission, the impact of the development on local facilities, the road network and utilities. There are further concerns about the occupation and type of fuel consumption of the caravans.
- 8.2. Crowfield Parish Council object to the visual impact of the development and consider permission should not be granted without adequate screening of the development. Further concerns relate to the occupation of the caravans.

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## **PART FOUR – INDEPENDENT LANDSCAPE ADVICE AND REFUSAL RISK ASSESSMENT**

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### **9. Independent landscape and design advice**

- 9.1 At the Planning Committee meeting on 20<sup>th</sup> January 2021, Members requested further, independent landscape and design advice to inform their consideration and determination of the application in respect of:
  - [a] the visual impact of the development upon the landscape character and appearance of the proposal in its context having regard go to policies GP1 and RT17 of the Local Plan and
  - [b] the extent to which the design and layout of the proposal takes the opportunities available for improving the character and quality of an area and the way it functions having regard to paragraphs 126 & 130 of NPPF
- 9.2 Although the development plan policies cited are no longer in force, they have been replaced by the policies of the JLP which seek to control the design of development and protect the character and appearance of the landscape in a similar way. It is appropriate therefore to continue to consider the risk associated with a landscape / visual impact reason for refusal of the application.

- 9.3 Advice has been provided by Michelle Boulger Expert Landscape Consultancy. Michelle Boulger is a landscape specialist who has previously supported the Councils' work at planning appeals, etc. The full report is available on the case file and a summary of the advice in respect of each issue is set out here.

#### Visual impact of the development on landscape character and appearance

- 9.3.1 The settlement character of the area around Stonham Barns is described as 'scattered, consisting of various sized small villages, dispersed hamlets and isolated farmsteads' which are 'nestled within the landscape without overly intruding on the countryside surrounding them'.
- 9.3.2 Public views of the Stonham Barns complex and this particular part of the site, are most readily experienced from the A1120 highway to the north when travelling between the main built up areas of the villages of Stonham Aspal and Pettaugh. There are also intermittent views from East End Road and public rights of way in the surrounding area.
- 9.3.3 Whilst the Stonham Barn complex as a whole is obtrusive in the landscape the main core of the complex is relatively well contained and screened by mature hedges and screening. The most visually prominent elements are the site entrance and associated signage, the car park adjacent to the A1120, the caravan development to the east of the main core and the earth bund to the east of the main core.
- 9.3.4 It is a material consideration that planning permission for the use of land for the siting of caravans has previously been granted for the land the subject of this application. Hybrid permission 3150/15 approved various development including the siting of 11 caravans on the land to which this application relates. Policy RT19 was considered and was afforded full weight when granting permission for 11 holiday units on this land.
- 9.3.5 Caravans are required to comply with the conditions of a caravan site license, including minimum separation distances from boundaries and other caravans to mitigate fire risk. The layout of the permitted caravans around the fishing lakes has been amended by planning permissions granted subsequent to 3150/15 such that the present formation of permitted caravans does not occupy all of the land permitted to be used for caravans and the subject of this application. There is therefore space for additional caravans to be sited on the land whilst also complying with the site license conditions. Notwithstanding the permissions that amended siting of the lodges the Council has already accepted that the application site is suitable for 11 holiday units.
- 9.3.6 The landscape report states that 'installing additional lodges within the footprint originally agreed for lodge development in the hybrid permission (3150/15) will not result in significant adverse landscape and visual impacts over and above those that have already resulted from the consented lodges.' Therefore, the capacity for further built development at the site is limited to the footprint previously permitted by the hybrid application 3150/15.
- 9.3.7 The proposed development lies entirely within the footprint of the red line for 3150/15 and the proposed caravans are to be sited in a similar linear formation to that previously permitted. There will be an increase in the number of caravans within the site as a whole, however, on the basis of the landscape advice, the additional caravans would not have an unacceptable impact on the character and appearance of the surrounding landscape.
- 9.3.8 Previous permissions included conditions to deliver new planted landscape screening for the caravan development which included mitigation of the siting of caravans on the land to which this

application relates. The landscape report confirms that although the landscape planting is immature and limited in its efficacy in mitigating the visual impact of the development it will deliver some benefit in screening the lower part of the caravans.

9.3.9 The lack of capacity for additional built development outside of the footprint of development permitted by the hybrid permission is due to visibility from the north, primarily the A1120. There is potential for this part of the site to accommodate landscape based recreational development, such as fishing ponds, but this would result in a significant change in character and would require planting of a woodland belt along the A1120.

9.3.10 The proposed development lies within the footprint of caravan development previously permitted and would not be unacceptably intrusive in the landscape.

#### Opportunities for improving the character and quality of the area

9.3.11 The landscape report identifies a number of opportunities to mitigate some of the effects of the total lodge development at Stonham Barns which includes:

- Advance woodland planting along the A1120
- Introducing visual/landscape breaks within the line of lodges;
- Allowing sufficient space adjacent to the eastern Stonham Barns boundary for strengthening of boundary vegetation;
- Further strengthening the boundary between Fields 1 & 2 and
- Further strengthening planting along the A1120.

9.3.12 It is possible to secure some mitigation of visual impacts arising from the development by condition on the grant of permission, if the Committee are so minded. However, Members should be mindful of the fact that the commissioned landscape advice relates to the whole complex and any conditions imposed must comply with para 56 of the NPPF which states:

*“Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.”*

9.3.13 Whilst it is necessary to secure some landscape planting to mitigate the visual impact of the development the scale of planting required must be reasonable and relevant to the mitigation of this development. It would not be reasonable, for example, to require the delivery of a woodland planting belt to enable further development at the site as part of the determination of this application.

#### 9.4 Advice conclusion

9.5 The siting and layout of the proposed development lies within the same footprint of the previously permitted caravan development and this additional development would not be intrusive in the landscape, having regard to the presence of other caravan development and previous permissions.

9.6 There are opportunities for improving the quality of the landscape and character of the area that may be presented at the Stonham Barns complex.

### **10. Risk assessment of ‘minded to’ reason for refusal**

- 10.1 The following risk assessment is provided to assist Members understanding of the associated risks when determining application DC/20/04296 deferred from the Mid Suffolk Development Control Committee B which took place on the 20<sup>th</sup> January 2021, on the basis of the 'minded to' reason minuted.
- 10.2 It is important to recognise that some of the risks identified in this assessment are not of themselves material planning considerations, as issues of reputational and financial impact bear no direct relation to land use planning matters. They are nonetheless facets which reflect upon the reasonableness of the local planning authority's decision on planning merit.
- 10.3 It would not be appropriate, therefore and as an example, to allow the likely costs associated with defending an appeal to influence the planning balance being struck in determining an application for planning permission. That said, such risks are important for councillors to bear in mind as holders of public office and costs may, if awarded, bring into question the reasonableness of the behaviour of the party they are awarded against. The costs would, in that sense, be a symptom of the unreasonableness.
- 10.4 The costs of defending an appeal or legal proceedings are not material to the planning merits of a particular decision and should not be given regard to in the making of a planning decision.
- 10.5 This risk assessment is provided, in the round, in the interests of transparency and disclosure. It is appropriate that councillors as decision-takers are at least aware of the foreseeable implications of any decision to be taken and consider the extent to which any decision made at variance to an officer recommendation is adequately reasoned and capable of bearing scrutiny under challenge, as recognised in Planning Practice Guidance.
- 10.6 The primary risks identified by officers in relation to the determination of the application are threefold:
1. Application of planning policy risk;
  2. appeal risk; and
  3. reputational risk.

#### **Application of Planning Policy risk**

- 10.7 Whilst every application must be considered on its own merits, it is also important for the Council to be consistent in its application of policy when determining applications of a similar nature. In this respect regard must be had to the likelihood and degree of any harm caused by the development and any conflict that harm has with the NPPF or any Development Plan Policy. Reasons for refusal must also be clearly stated and it is necessary for the planning authority to have been reasonable in its consideration of technical advice on the relevant matters.
- 10.8 The reason refers to policies that have since been superseded by the BMSDC Joint Local Plan. As such, the proposal should be considered against the provisions and restrictions of the JLP policies cited above. There is a significant risk associated with the citing of out of date policies in the reason for refusal.
- 10.9 The combined legal duties of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require decisions to be made in accordance with the development plan unless there are material considerations that indicate

otherwise (and such material considerations must be taken into account). This lies at the heart of the “planning balance” that Members exercise and thus, the development plan is the starting point, but not the end point, for the determination of planning applications.

- 10.10 Policies CS2 and RT19, cited in the minded to reason for refusal are no longer in force as part of the development plan. Should the Committee resolve to refuse the application on similar grounds, officers advise the cited policies are replaced with policies from the JLP which are in accordance with the NPPF.
- 10.11 There is not considered to be a significant risk regarding identified harm or policy conflict providing the correct policies are cited in the reason for refusal.
- 10.12 It is necessary to clearly state the reasons for refusal of an application for permission. To rely upon vague, generalised or inaccurate assertions about a proposal's impact presents a risk of permission being granted on appeal and an award of costs for unreasonable behaviour.
- 10.13 There is not considered to be a significant risk regarding the clarity of the reason for refusal.
- 10.14 Members specifically asked for further, independent, technical advice on landscape and design matters which is detailed below.
- 10.15 There is considered to be a degree of risk associated with the reason for refusal if it does not have regard to this advice.

#### **Appeal Risk**

- 10.16 In accordance with current National Planning Practice Guidance, a failure to substantiate a reason for refusal, or the prevention of development that clearly should have been permitted, is likely to lead to an award of costs against the Council at appeal. The risk of this occurring is higher where Members overturn the professional recommendation of their planning officers and especially so where their reasons or harm cannot be substantiated by professional or objective evidence. In short that would be unreasonable in a planning authority decision.
- 10.17 The risk in respect of this application arises from the likelihood of submission of an appeal.

#### **Reputational Risk**

- 10.18 Reputational risks to the local planning authority will foreseeably arise from taking decisions that might be unreasonable, founded on vague, generalised or inaccurate assertions about a proposals impact and which are unsupported by any objective analysis or which are inconsistent with other prior decisions of the authority or by Inspectors at appeal.
- 10.19 It is expected that the local planning authority will make decisions which are reasonable in the round, have regard to relevant considerations and disregard irrelevant considerations.
- 10.20 The risk in respect of this application is in the reasonableness of the decision made.
- 10.21 Officers consider that there may be significant risk associated with the minded to reason for refusal, on the basis of visual and landscape impact, mainly given the technical advice received, as set out above.

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## UPDATED CONCLUSION AND RECOMMENDATION

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### 11. Conclusion

- 11.1 It is necessary to ensure the decision is made in accordance with the Development Plan as it exists at the time of the decision. The assessment above sets out the current development plan policies that are relevant to the determination of the application and if / how officers consider the proposal is in accordance with the plan as a whole.
- 11.2 Officers have received technical advice from the landscape consultant as to the impact of the proposed development on landscape character and the appearance of the area. That advice concludes that, as the development is sited within the footprint of the previously permitted caravan development granted by the hybrid permission 3150/15 there would be no unacceptable impact on landscape character and appearance of the area.
- 11.3 The landscape consultant further advises on opportunities for the improvement of the character and quality of the area, and which can be appropriately secured by means of condition.
- 11.4 Officers have reviewed and risk assessed the minded-to reason for refusal from the previous Committee meeting, having regard to the current development plan. Officers advise that there is a degree of risk associated with the proposed reason for refusal having regard to the technical advice received from the landscape consultant.
- 11.5 The technical advice and risk assessment have informed the updated recommendation to Committee as set out below.
- 11.6 However, the development plan in force at the date of this meeting / decision is the Babergh and Mid Suffolk Joint Local Plan. Policy LP13 of the JLP which only supports development for tourist accommodation in the countryside on an exceptional basis where there is an overriding business need. The application documents fail to demonstrate an overriding business need for the proposed development and, on this basis, there is not considered to be grounds for an exception to be made to grant permission.
- 11.7 The application documents also fail to provide sufficient information to enable assessment of the flood risk impacts of the development, contrary to policy LP27 of the development plan.

## **12. RECOMMENDATION**

A. That the contents of this risk assessment be noted and the application determined without the 'minded to' reason for refusal of Planning Committee 20<sup>th</sup> January 2021;

AND

B. That planning permission be REFUSED for the following reason(s):

1. The application fails to demonstrate an overriding business need for the development such as would be considered an exceptional circumstance for the purposes of policy LP13. As such, the principle of the development is in conflict with the development plan.
2. The application documents include insufficient information to enable assessment of the flood risk impacts of the development, contrary to policy LP27 of the development plan And the NPPF paras 8, 11, 161, 167 and 168.