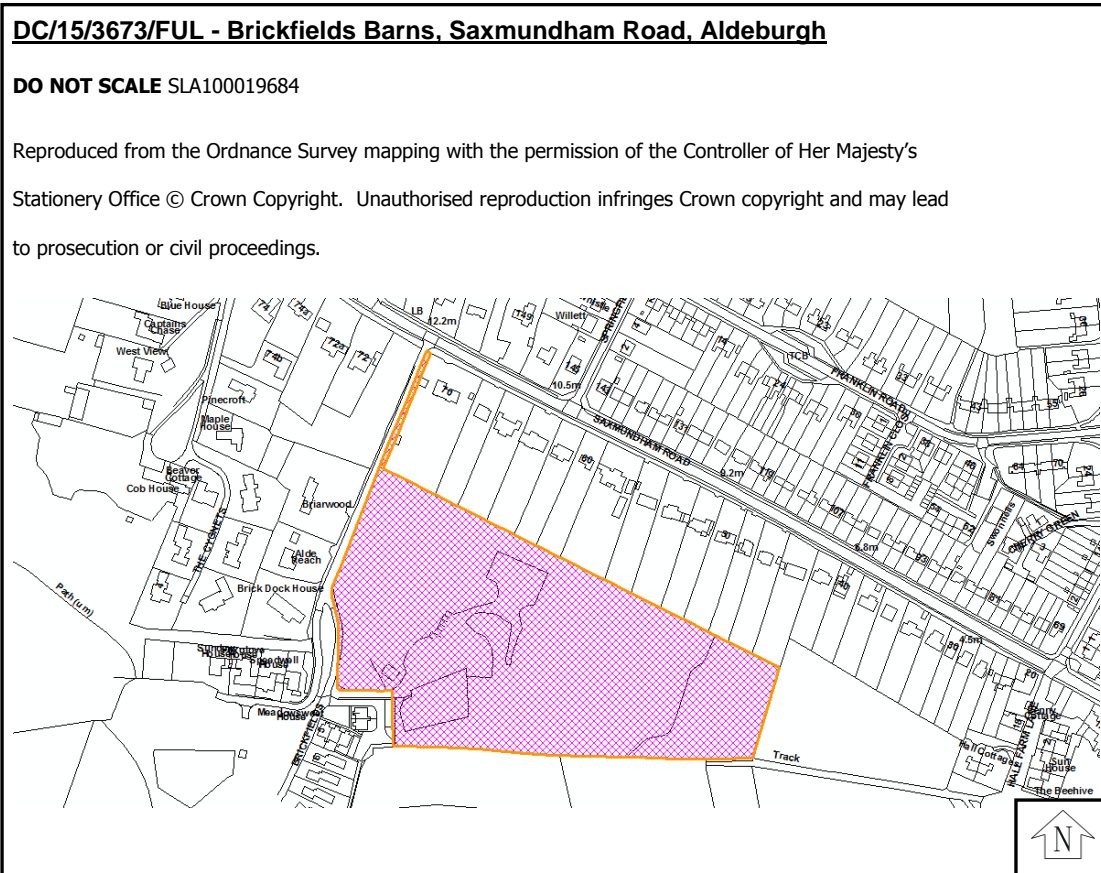


**PLANNING COMMITTEE**

Thursday, 21 December 2017

**APPEAL UPDATE BRICKFIELDS, ALDEBURGH , APPLICATION DC/15/3673/FUL:  
DEMOLITION OF EXISTING REDUNDANT STORES, CHANGE OF USE OF BUILDERS YARD AND  
REDEVELOPMENT OF QUARRY SITE TO PROVIDE 43 NO. DWELLINGS, INCLUDING 14 NO.  
AFFORDABLE DWELLINGS : BRICKFIELDS BARNs (ALDEBURGH BRICKWORKS), SAXMUNDHAM  
ROAD, ALDEBURGH, IP15 5PF FOR MS OAKES LIMITED. (PC 60/17)**

Report by Head of Planning and Coastal Management



**EXECUTIVE SUMMARY**

1. The District Council received a written representations planning appeal (May 2017) against the decision of the planning committee (November 2016) to refuse planning permission for the above development.
2. The Planning Inspectorate required under Regulation 22 of the 2011 Environmental Impact Assessment (EIA) Regulations a revised/reformatted EIA and the document has been submitted and is subject of re-consultation. A revised EIA was subsequently received. Member's authority is requested to respond to a revised EIA received in connection with the on going. There are currently no delegated powers to respond to an EIA consultation in these circumstances and therefore authority is requested from Members.

3. Members will also be updated as to material changes to the planning balance which have occurred since refusal of permission in November 2016, principally matters of housing land supply.
4. The report considers the implications and impacts of the revised EIA and updates on matters of planning balance.
5. It is recommended that the Committee agrees to the recommendation.

**Wards Affected:**

**ALDEBURGH**

Philip Ridley  
Head of Planning and Coastal Management

**BACKGROUND PAPERS**

Appendix A: Agenda report November 3 2016

Appendix B: Committee Minutes November 3 2016

Planning File Reference DC/15/3673/FUL

Draft unilateral undertaking in support of current appeal.

Revised EIA received November 2017

The Ipswich and Waveney Housing Market Strategic Housing Market Assessment.

Planning for the right homes in the right places: consultation proposals' (14 September 2017)

Appeal Decision Bell Lane, Kesgrave

Appeal Decision Hill Farm, High Street, Ufford

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For further information, please contact Phillip Rowson, Planning Development Manager, Planning Services ) 01394 444442.

## 1. INTRODUCTION

- 1.1 Application DC/15/3673/FUL was considered by the Planning Committee in November 2016 and was refused. The application sought the erection of 43 residential units, including 14 affordable houses on a 4.18ha area of land, including the extraction pit to the north-east of the former Aldeburgh Brickworks. The northern end of the site is a designated geological SSSI.
- 1.2 The application was subject of Environmental Impact Assessment. The development lies outside the physical limits of Aldeburgh and within the designated Suffolk Coasts and Heaths Area of Outstanding Natural Beauty and Heritage Coast. The physical limits boundary abuts the site on its north-eastern and western sides, following the line of the residential curtilage of properties in Saxmundham Road and Brick Dock Lane. The site lies within 300m of the Alde-Ore SSSI, SPA, SAC and Ramsar site.
- 1.3 The application was refused with five reasons for refusal:
- 1 The proposed development lies outside the physical limits of Aldeburgh, as defined within the Suffolk Coastal Local Plan and the Site Allocations and Area Specific Policies DPD Proposed Submission Document 2016; in a sensitive elevated position within the Suffolk Coasts and Heaths Area of Outstanding Natural Beauty and designated Heritage Coast. The development will have unacceptable visual impact within the AONB; lies in a location considered poorly related to services and facilities within the Town; has poor access provision; and will result in detrimental impact upon nearby designated habitat and species (Alde Ore Estuary SPA, SSSI, Ramsar site, SAC). The site was not considered appropriate for development during the formulation of the Site Allocations and Area Specific Policies DPD Proposed Submission Document 2016. This policy document is considered to be at an advanced stage of adoption, has followed due democratic process and should be given significant weight. As a result, the development lies in a countryside location and does not comply with any of the circumstances set out within Local Plan policy DM3 for housing in the countryside (outside the physical limits of the Town) and is not justified by material considerations (housing need), given the amount of housing coming forward within the Aldeburgh Housing Market Area (identified within the Local Plan - Map 3) and the availability of development sites within the Town boundary, as identified within the Site Allocations and Area Specific Policies DPD Proposed Submission Document 2016 (SSP2).
  - 2 The development of 43 dwellings is a 'Major development' which will have detrimental visual impact upon this part of the Suffolk Coasts and Heaths Area of Outstanding Natural Beauty and Heritage Coast from public locations to the south and west and from Brick Dock Road and will have a detrimental effect upon the setting of the Town. The level of detrimental impact is not justified by demonstrable 'exceptional circumstances' or demonstrable 'public interest' from the development and as a result the development is considered unsustainable and contrary to Paras 115 and 116 of the NPPF and Policy SP22 (e ) of the Suffolk Coastal District Local Plan Core Strategy and Development Management Policies DPD (2013).

- 3 The design of the development is considered to be unacceptable, with the properties unrelated to the traditional characteristics of properties in the area/AONB and those in the immediate area and the design approach is not considered to be outstanding or innovative, which would help raise the standard of design more generally in the area. Such a design, with houses visible from the south, west and north is not considered of a quality suitable for such a sensitive AONB location and is therefore considered unsustainable and contrary to the NPPF and policy DM21 of the Suffolk Coastal District Local Plan Core Strategy and Development Management Policies DPD (2013).
- 4 The application fails to make adequate provision for affordable housing to meet identified needs, as required by Policy DM2 of the Suffolk Coastal District Local Plan Core Strategy and Development Management Policies DPD 2013 and the guidance set out in Supplementary Guidance 2 'Affordable Housing' (adopted in July 2004). The proposed development would, if approved, without the provision of affordable housing (through a S106 Agreement, or Unilateral Undertaking) prejudice the District Council's strategy for the provision of affordable housing.
- 5 The development in combination with other developments in the eastern part of the District will give rise to significant impact upon the Habitat and Species of the European Designated Habitat Areas in the locality (Alde-Ore Estuary SPA and Sandlings SPA) as a result of increased disturbance from recreational activity. Without contribution to appropriate mitigation (management, education and monitoring) through a S106 Agreement, or Unilateral Undertaking, the development will result in detrimental impact upon the Habitat and Species of these areas, contrary to Policy DM27 of the Suffolk Coastal District Local Plan Core Strategy and Development Management Policies DPD (2013) and the NPPF.

## **2. THE APPEAL**

- 2.1 The Appeal was submitted in May 2017. In July 2017 the inspectorate wrote to the Appellant:

“Following examination of the ES, the Secretary of State notifies you by this letter, pursuant to Regulation 22 of the 2011 EIA Regulations, that, to comply with Schedule 4 of those regulations (Information for inclusion in environmental statements) the appellant is required to supply the following further information:

- a. The ES should include a description of the development comprising information on the site, design and size of the development. Whilst it is noted that much of this information is provided in piecemeal fashion within a variety of other appeal documents (for example the Design and Access Statement and the various environmental reports), the ES needs to include a comprehensive description of the proposed development. This should include information on the physical characteristics of the appeal site (such as the site area) and the necessary detail applicable to the development concerned eg maximum parameters of the development including, for example, building heights. A description of the land uses during the construction phase should also be provided (such as the location of the construction compound), including the anticipated duration of the works.

- b. The information used to identify and establish the baseline position relevant to the topic assessments. The ES itself includes a minimal description of the baseline conditions at the site and how they have been established for each topic considered. Whilst it is acknowledged that the baseline conditions are set out in some of the technical reports, the ES needs to include a comprehensive description of the baseline conditions which have informed the topic assessments. In absence of this information it is not possible to have confidence in the findings of the topic assessments as presented in the current ES.
- c. The ES should include a description of the likely significant effects of the proposed development, taking into account the information requested above and addressing the direct, indirect, secondary, short, medium and long-term nature of the impacts. Effects associated with both construction and operation of the development should be described. The current ES does not provide an assessment of the significance of effects, which is a specific requirement of schedule 4 of the 2011 EIA Regulations. This is evidenced for example by the Landscape and Visual Impact Appraisal, which at paragraph 3.3 explicitly states 'The analysis does not attempt to determine the significance of effects'.
- d. The ES should include a description of the criteria (methodology) used to determine the significance for the each topic, along with an explanation of how this has been derived with reference to any applicable guidance.
- e. The ES should include a description of the mitigation methods proposed and how these will be effective in preventing, reducing and where possible offsetting any significant adverse effects on the environment. Whilst the ES provides an indication of mitigation measures proposed in relation to some topics (e.g. in relation to flood risk assessment at paragraph 7.3.3), this approach is not consistent across all topics and it is unclear how the delivery of such measures would be secured. The ES does not include a residual effects assessment within each topic chapter and this presents difficulties to understanding the efficacy of the proposed mitigation.
- f. An outline of the main alternatives studied by the appellant and an indication of the main reasons for the choice made, taking into account the environmental effects.
- g. A non-technical summary (NTS) of the information provided in the ES, incorporating the elements set out above. The current ES effectively presents itself as an NTS. However the NTS should be a standalone document, which in accordance with Schedule 4 of the 2011 EIA Regulations must be provided in addition to (not in place of) the main ES.
- h. The response to the information request above should cover the scope of the assessment as set out in paragraph 3.4 of the ES, with particular focus on landscape and visual impact and ecological impact given the location of the scheme.
- i. The information provided in the various technical reports (as listed in paragraph 1.3 of the ES) is acknowledged, but in order to comply with the 2011 EIA Regulations the information needs to be compiled in the format of a typical ES. We would draw your attention to court cases which have stressed the need for all the relevant environmental information in an ES to be comprehensive and easily accessible."

### **3. THE REVISED EIA**

3.1 The revised Environmental Statement (ES) is effectively a completely new document that comprises two volumes. Volume 1 is the main Environmental Statement, with volume 2 the Non-Technical Summary document. The ES draws together the various reports and information that comprised the EIA at application stage, but has involved additional/alternative reports/information in the Chapters of LVIA and Ecology, Water Resources Surface Water Drainage and Flood Risk and Contamination.

3.2 Volume 1 comprises 11 Chapters:

- a. Chapter 1 Introduction and Policy Context
- b. Chapter 2 Structure and Methodology
- c. Chapter 3 Summary of Existing Site (Baseline)
- d. Chapter 4 Alternatives and Design Evolution
- e. Chapter 5 Proposed Development
- f. Chapter 6 LVIA
- g. Chapter 7 Ecology
- h. Chapter 8 Water Resources Surface Water Drainage and Flood Risk
- i. Chapter 9 Contamination
- j. Chapter 10 Transport
- k. Chapter 11 Arboriculture.

### **4 CONSIDERATIONS**

4.1 The revised ES has been provided by the appellant to the Planning Inspectorate (PINS). It is a document which is under consultation with the District Council, and all other consultees who were interested parties to the planning process. The consultations are returned directly to PINS (not the District Council).

4.2 Officers consider that the revised ES follows the detailed requirements of the PINS Regulation 22 request (see above). The proposed development remains the same as that considered by the Planning Committee in November 2016. Perhaps unsurprisingly, the appellants consider impacts are to be the same as previously outlined and therefore the mitigation measure laid out in the ES are little altered from those previously proposed.

4.3 Officers note:

- In terms of Alternatives (to the proposed development) at Chapter 4; no consideration is given to a reduced residential scheme.
- The Ecology Chapter relies on the proposed S106 to mitigate impact of recreational disturbance.

- Construction phase and operation phase impacts are mitigated through the submission of Construction Ecological Management Plans and Landscape and Ecological Management Plans respectively.

## 5 OTHER MATERIAL CONSIDERATIONS

### HOUSING LAND SUPPLY

5.1 Since refusing permission for the proposed development, the Council has published its 2017 annual Housing Land Supply Assessment. This included a detailed and evidence based review of supply sites. This Assessment was published in June 2017 and sets out that the Council has a 7.1 years housing land supply using the Sedgfield methodology and with the application of a 5% buffer. The assessment covers the period 1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2022, the assessment is based on the minimum housing requirement of 7,900 (465 dwellings per annum) set out in the Core Strategy.

5.2 The Core Strategy housing requirement of 7,900 over the plan period, or 465 per annum (Policy SP2) was adopted despite an assessment of objective needs being 11,000 for the plan period (based on information in the 2001 Census), and subject to an express policy commitment to undertake an early review of the Plan commencing with the publication of an Issues and Options document in 2015. The Council did not publish this document in 2015 due to delays caused by an unsuccessful legal challenge to the Core Strategy in the High Court and Court of Appeal. It was published in August 2017. Following recent appeal decisions, the Council reluctantly accepts that, on balance, the late commencement of the Local Plan Review has resulted in the Core Strategy being out of date. In the context of paragraph 14 of the NPPF, the fourth bullet point applies to decision taking in the District. Therefore the housing requirement of the Core Strategy (Policy SP2) is deemed to be out of date.

5.3 The 11,000 OAN for the District should also be considered out of date, due its age, outdated Census source and referenced position in the out of date Core Strategy. The Council therefore has two alternative scenarios in coming to a Housing Requirement figure:

- A. The Ipswich and Waveney Housing Market Strategic Housing Market Assessment (SHMA) was published in May 2017. This is an extensive document which assesses the housing need of Suffolk Coastal District, Babergh District, Mid Suffolk District and Ipswich Borough for the Ipswich Housing Market Area as a joint policy document covering those four authority areas. This document was prepared by Peter Brett Associates on behalf of the four authorities. The SHMA is further supported by detailed evidence provided by Cristina Howick of Peter Brett Associates for the dismissed appeal at Bell Lane, Kesgrave. The SHMA supports an annual requirement of 460 dwellings per annum. The SHMA is the most up to date evidence of need from 2014 to 2036, and the Council has every reason to be confident that the SHMA is a robust assessment of need on which to base its Local Plan review.

B The 'planning for the right homes in the right places: consultation proposals' (14 September 2017) document provides a draft standard methodology for housing need. If this methodology becomes legislation then it would be automatically applicable to this Council. Through this the annual requirement would be 495 dwellings per annum.

5.4 The Council calculates the housing land supply positions under both scenarios, and in each case through the application of a 5% and 20% buffer. In all four circumstances the Council has a five year housing land supply.

#### RECENT APPEAL DECISIONS

5.5 The matter of housing land supply has been central to a series of important decisions which have set the back drop to decision making for SCDC. The run of recent decisions from PINS had followed principles established in the Framlingham Appeals. Most recently the called in public inquiry appeal at Candlet Road, Felixstowe. In these circumstances inspectors had been persuaded that the council did not have a five year land supply, and that an OAN of circa 11,000 should apply.

5.6 Our most recent public inquiry relating to land supply issues in SCDC was Bell Lane, Kesgrave took a different view. For matters of land supply it was considered at para 48 that a five year supply "just about exists" in SCDC. Consequently, the local plan policies can be considered to be up to date and due weight applied to the criteria they contain. The inspector dismissed this appeal as the harm arising was substantive and not outweighed by the benefits associated with the delivery of 300 new dwellings. It should be noted that the appellant has recently lodged a judicial review against this decision.

5.7 The most recent appeal decision relating to housing land supply in SCDC is that for Hill Farm, High Street, Ufford (DC/16/4730/OUT). This decision was from a planning appeal hearing and was issued on 6 December 2017. In paragraph 21 the inspector notes that there was no detailed analysis of matters of housing land supply (this being a hearing and not a public inquiry). As such the inspector took a worst case, i.e. that there was an undersupply of housing (although stating that this was not an endorsement beyond this case). The inspector went on to say that the progress of the local plan was noted. In such circumstances the inspector applied Para 14 of the NPPF, the "tilted balance". In making the decision for 13 dwellings the inspector was persuaded that the overriding harm created by the development to landscape character was not outweighed by the benefits that flowed from the development.

5.8 Officers are persuaded that the council has a five year housing supply as detailed in Section 4. Even if the inspector were to dismiss this matter and were then to apply the "tilted balance", then the Council would demonstrate that significant harm arises from the proposals. When considering the "tilted balance" then such



significant harm outweighs the benefits that this development may deliver. As such the appeal should be dismissed.

#### REASONS FOR REFUSAL 4 & 5 SECURING MITIGATION FOR ECOLOGY IMPACTS AND AFFORDABLE HOUSING.

- 5.9 The appellants have produced a unilateral undertaking, offering 14 affordable homes for rent and a habitat mitigation of £150 per dwelling. These provisions are made to directly address reasons 4 & 5 of the refusal, i.e. that no mitigation is offered or secured to ameliorate impacts on habitat or to offer affordable housing.
- 5.10 The agreement will be considered by the appointed inspector in accord with the council's reasons for refusal and policy framework. Without prejudice it is considered that those contributions will create benefits / help to ameliorate the impacts from this development. However, that amelioration is not overriding in terms of the principle reasons for refusal set out above, i.e. reasons 1, 2 & 3 remain to be defended.

#### **6 RECOMMENDATION**

- 6.1 That the Planning Committee confirms that the revised ES follows the detailed requirements of the PINS Regulation 22 request and that the council confirms this to PINS on or before 22 December 2017.
- 6.2 That the Planning Committee confirms support for officers to defend the decision (1.3 above) in terms of reasons for refusal 1, 2, & 3; and to evaluate the appellant's legal agreement in terms of habitat mitigating and provision of Affordable Housing (refusal reasons 4 & 5). Officers are then to submit the Council's formal written statement to PINS on or before 22 December 2017.