

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Planning Committee

11 May 2016

**AUTHOR/S:** Planning and New Communities Director

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**Application Number:** S/0078/16/FL

**Parish:** Gamlingay

**Proposal:** Proposed New Dwelling

**Site address:** Fountain Farm, Park Lane, Gamlingay

**Applicant(s):** G Bartram

**Recommendation:** Delegated Approval

**Key material considerations:** Principle, local character, residential amenity

**Committee Site Visit:** 21 April 2016

**Departure Application:** Yes

**Presenting Officer:** Alison Twyford, Senior Planning Officer

**Application brought to Committee because:** The Parish Council have objected to the application contrary to Officer recommendation.

**Date by which decision due:** 24 March 2016

### **Relevant Planning History**

1. S/0567/77/O- Erection of an agricultural bungalow -Approved  
  
S/0523/88/F – Mobile Home – Approved  
  
S/1665/03/LDC - Certificate of Lawfulness for Retention of Living Accommodation as Permanent Dwelling- Refused  
  
S/1111/98/LDC - Occupation of Dwelling Without Compliance With Agricultural Restriction – Approved  
  
S/0145/04/F- Erection of Bungalow to Replace Mobile Home – Approved

### **National Planning Policies and Guidance**

2. *National Planning Policy Framework (NPPF) 2012*  
*National Planning Practice Guidance*

## Development Plan Policies

3. The extent to which any of the following policies are out of date and the weight to be attached to them is addressed later in the report.

4. *South Cambridgeshire LDF Core Strategy, adopted July 2007*  
ST/5 Minor Rural Centres

### *South Cambridgeshire LDF Development Control Policies, adopted July 2007*

DP/1 Sustainable Development  
DP/2 Design of New Development  
DP/3 Development Criteria  
DP/4 Infrastructure and New Developments  
DP/7 Development Frameworks  
SF/10 Outdoor Playspace, Informal Open Space, and New Developments  
SF/11 Open Space Standards

5. *South Cambridgeshire LDF Supplementary Planning Documents (SPD):*  
District Design Guide SPD – Adopted March 2010

## Consultation

6. **Gamlingay Parish Council** - recommends refusal with the following comments:  
"Site is in the open countryside. Precedent issue arises in relation to splitting up of landholdings within the open countryside to create new homes on land which was originally one rural small holding with one mobile home. Proposed property has no link to manage rural landholding. Site is outside Gamlingay's development framework/village envelope."

7. **Environmental Health** – Advise the following conditions if approved:  
No construction site machinery or plant shall be operated, no noisy works shall be carried out and no construction related deliveries taken at or despatched from the site except between the hours of 0800-1800 Monday to Friday, 0800-1300 Saturday and not at any time on Sundays or Bank or Public holidays.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with local planning policy.

8. There shall be no burning of any waste or other materials on the site, without prior consent from the environmental health department.

Reason: To ensure nuisance is not caused to local residents.

9. Should driven pile foundations be proposed, then before works commence, a statement of the method for construction of these foundations shall be submitted and agreed by the District Environmental Health Officer so that noise and vibration can be controlled.

## *Informatives*

10. The applicant should take all relevant precautions to minimise the potential for disturbance to neighbouring residents in terms of noise and dust during the construction phases of development. This should include the use of water suppression for any stone or brick cutting and advising neighbours in advance of

any particularly noisy works. The granting of this planning permission does not indemnify against statutory nuisance action being taken should substantiated noise or dust complaints be received. For further information please contact the Environmental Health Service.

11. **Highways Authority** – No significant adverse effect upon the Public Highway.

### **Representations**

12. No representations were received in relation to this application.

### **Site and Proposal**

13. The site lies outside the Village Development Framework for Gamlingay and is within the countryside.
14. The site is presently occupied by a bungalow with a sizeable garden area which is proposed to be subdivided to form two plots with a shared access. The site has a vehicular access from Park Lane and is well screened on the western boundary.
15. The new dwelling would be adjacent to other residential properties. The existing boundary treatments of mature hedges and trees are to be retained.

### **Planning Appraisal**

16. The main issues to consider in this instance are the policy context, impact on the character and appearance of the area, and neighbour amenity impact.

### **Policy Context / Housing Land Supply Implications**

17. The National Planning Policy Framework (2012) (NPPF) requires councils to boost significantly the supply of housing and to identify and maintain a five-year housing land supply with an additional buffer as set out in paragraph 47.
18. The Council accepts that it cannot currently demonstrate a five year housing land supply in the district as required by the NPPF, having a 3.9 year supply using the methodology identified by the Inspector in the Waterbeach appeals in 2014. This shortfall is based on an objectively assessed housing need of 19,500 homes for the period 2011 to 2031 (as identified in the Strategic Housing Market Assessment 2013 and updated by the latest update undertaken for the Council in November 2015 as part of the evidence responding to the Local Plan Inspectors' preliminary conclusions) and latest assessment of housing delivery (in the housing trajectory November 2015). In these circumstances any adopted or emerging policy which can be considered to restrict the supply of housing land is considered 'out of date' in respect of paragraph 49 of the NPPF.
19. Further guidance as to which policies should be considered as 'relevant policies for the supply of housing' emerged from a recent Court of Appeal decision (Richborough v Cheshire East and Suffolk Coastal DC v Hopkins Homes). The Court defined 'relevant policies for the supply of housing' widely so not to be restricted 'merely policies in the Development Plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites,' but also to include, 'plan policies whose effect is to influence the supply of housing by restricting the locations where new housing may be developed.' Therefore all policies which have the potential to restrict or affect housing supply may be considered out of date in

respect of the NPPF. However even where policies are considered 'out of date' for the purposes of NPPF paragraph 49, a decision maker is required to consider what (if any) weight should attach to such relevant policies.

20. In the case of this application policies which must be considered as potentially influencing the supply of housing land include ST/5 of the adopted Core Strategy and adopted policies DP/1 (by virtue of criterion 1a) and DP/7 of the adopted Development Control Policies.
21. Paragraph 14 of the NPPF states that there is a presumption in favour of sustainable development. It says that where relevant policies are out of date, planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or where specific policies in the NPPF indicate development should be restricted.
22. Paragraph 55 of the National Planning Policy Framework (NPPF) states that new housing in rural areas should be located where it will enhance or maintain the vitality of rural communities, and new isolated homes in the countryside should be avoided unless there are special circumstances. Local Policies DP/1 and DP/7 share this aim in restricting development outside of urban and village frameworks to agricultural, horticulture, forestry, outdoor recreation and other uses that need to be located in the countryside, as well reducing car dependency and the need to travel.
23. It falls to the Council as decision maker to assess the weight that should be given to the existing policy. The Council considers this assessment should, in the present application, have regard to whether the policy continues to perform a material planning objective and whether it is consistent with the policies of the NPPF. For the purposes of paragraph 55 of the NPPF, the proposed dwelling is not considered to be isolated. The development would be grouped close to several dwellings and would be located within relatively easy walking or cycling distance to the centre of Gamlingay. In accordance with the Core Strategy policy ST/5, Gamlingay is a Minor Rural Centre which has services and facilities that support local village requirements. On balance, officers consider a dwelling house is suitable in this location subject to all other material considerations and consider that little weight can be given to policy DP/7 in relation to this particular application.

#### **Impact on character of the area**

24. The development would be confined to within an existing residential plot area to the side of Fountain Farm, Park Lane and would be positioned directly adjacent to the road. The surrounding buildings are all in residential use.
25. The proposed dwelling will be in keeping with the general residential character of the locality and is not considered likely to have an adverse impact upon the character and appearance of the area.
26. The planning application which approved the existing bungalow on the site under planning reference S/0145/04/F – "*Erection of Bungalow to Replace Mobile Home*" removed permitted development rights under Schedule 2 Part 1 Classes 1 and 2 to safeguard the character of the area. Officers consider that the same restrictions should be applied to this property to ensure the site is not overdeveloped.
27. On this basis, the proposal complies with policies DP/2 and DP/3 of the adopted LDF.

## **Residential Amenity**

28. Officers do not consider that the proposed development will have a detrimental impact upon the amenity of the neighbouring properties. Officers do not consider that the proposal will create any significant issues of overshadowing or loss of light. No objections have been received in this respect.
29. Conditions have nonetheless been recommended by the Environmental Health Section which seek to protect residential amenity during the period of construction.. Officers consider that a working hours condition is reasonable for attachment to any approval that may be granted. Officers consider that the proposed conditions relating to the burning of materials and possible piling of foundations would be more suitable as Informatives to any approval that may be granted.

## **Section 106**

30. Government planning policy that sought to introduce a new national threshold on pooled contributions was introduced on 28 November 2014 but has since been quashed. Policies DP/4, SF/10 and SF/11 therefore remain relevant in seeking to ensure the demands placed by a development on local infrastructure are properly addressed.
31. There remains restrictions on the use of section 106 agreements, however, resulting from the Community Infrastructure Levy Regulations 2010 (amended). CIL Regulation 122 states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is (i) Necessary to make the development acceptable in planning terms; (ii) Directly related to the development; and (iii) Fairly and reasonably related in scale and kind to the development.
32. CIL Regulation 123 has the effect of restricting the use of pooled contributions. In accordance with Planning Practice Guidance "When the levy is introduced (and nationally from April 2015), the regulations restrict the use of pooled contributions towards items that may be funded via the levy. At that point, no more may be collected in respect of a specific infrastructure project or a type of infrastructure through a section 106 agreement, if five or more obligations for that project or type of infrastructure have already been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy". The pooling is counted from 6 April 2010.
33. More than five planning obligations have been entered into for developments in the village of Gamlingay since that date. As such, officers are satisfied that the Council could not lawfully enter into a section 106 agreement to secure developer contributions as per development control policies DP/4, SF/10, SF/11 should the application be approved.
34. No specific projects for either outdoor or indoor community facilities have been identified that are directly related to the development; fairly and reasonably related in scale and kind to the development; or necessary to make the development acceptable in planning terms (as per the requirements on paragraph 204 of the NPPF). As such, no request for such contributions should be sought in the event the application was to be approved.

## **Conclusion**

35. In considering this application, the following relevant adopted development plan policies are to be regarded as out of date while there is no five year housing land supply:
- ST/5: Minor Rural Settlements – indicative maximum scheme size of 30 dwellings  
DP/1 (1a) – Sustainable Development  
DP/7: Village Frameworks
36. This means that where planning permission is sought which would be contrary to the policies listed above, such applications must be determined against paragraph 14 of the NPPF.
37. Officers have identified in the report the areas where they consider that significant and demonstrable harm will not result from the proposal, in terms of the unsustainable location for a development of the scale proposed. Officers have based this conclusion on the specific circumstances of Gamlingay, taking into account that the village is considered to be a generally sustainable location for development of this scale as outlined in the planning assessment.
38. In doing so, officers have concluded that housing supply policies ST/5, DP/1 1a and DP/7 are not considered to be of sufficient weight in this instance to suggest that planning permission should not be granted for the proposed development given the adverse impacts of doing so would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or where specific policies in the NPPF indicate development should be restricted.

## **Recommendation**

39. Officers recommend that the Committee approve the application, subject to:

### **Conditions**

- (a) Time Limit (3 years) (SC1)
- (b) Drawing numbers (SC95)
- (c) Removal of permitted development rights (Classes A-H of Schedule 2 Part 1) (SC29)
- (d) No construction site machinery or plant shall be operated, no noisy works shall be carried out and no construction related deliveries taken at or despatched from the site except between the hours of 0800-1800 Monday to Friday, 0800-1300 Saturday and not at any time on Sundays or Bank or Public holidays.

### **Informatives**

1) The applicant should take all relevant precautions to minimise the potential for disturbance to neighbouring residents in terms of noise and dust during the construction phases of development. This should include the use of water suppression for any stone or brick cutting and advising neighbours in advance of any particularly noisy works. The granting of this planning permission does not indemnify against statutory nuisance action being taken should substantiated noise or dust complaints be received. For further information please contact the Environmental Health Service.

2) There shall be no burning of any waste or other materials on the site, without prior

consent from the environmental health department.

3)Should driven pile foundations be proposed, then before works commence, a statement of the method for construction of these foundations shall be submitted and agreed by the District Environmental Health Officer so that noise and vibration can be controlled.

### **Background Papers:**

The following list contains links to the documents on the Council's website and / or an indication as to where hard copies can be inspected.

- South Cambridgeshire Local Development Framework Core Strategy DPD (adopted July 2007)
- South Cambridgeshire Local Development Framework Development Control Policies DPD (adopted July 2007)
- Planning File Ref: S/0078/16/FL

### **Report Author:**

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