

Philip Isbell – Chief Planning Officer
Sustainable Communities

Mid Suffolk District Council
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REFUSAL OF PLANNING PERMISSION

TOWN AND COUNTRY PLANNING ACT 1990
THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015

Correspondence Address:

Whitworth
18 Hatter Street
Bury St Edmunds
IP33 1NE
United Kingdom

Applicant:

Mr & Mrs Bartrum
1 Grove House
Mount Street
Diss
IP22 4QQ

Date Application Received: 27-Aug-21

Application Reference: DC/21/04764

Date Registered: 11-Oct-21

Proposal & Location of Development:

Planning Application - Erection of 1no. dwelling (as amended by details received 11th October 2021).

Land North Of, Old Bury Road, Stuston, Suffolk

Section A – Plans & Documents:

This decision refers to drawing no./entitled 6025_Site Location received 11/10/2021 as the defined red line plan with the site shown edged red. Any other drawing showing land edged red whether as part of another document or as a separate plan/drawing has not been accepted or treated as the defined application site for the purposes of this decision.

The plans and documents recorded below are those upon which this decision has been reached:

Defined Red Line Plan 6025_Site Location - Received 11/10/2021
Visibility Splays Drawing 6025_32 - Received 11/10/2021
Floor Plan - Proposed Ground Floor 6025_20E - Received 27/08/2021
Floor Plan - Proposed 6025_21B - Received 27/08/2021
Block Plan - Proposed 6025_23B - Received 27/08/2021
Elevations - Proposed Garage 6025_31 - Received 27/08/2021
Proposed Landscaping Plan Lucy Batchelor-Wylam August 2021 - Received 27/08/2021
Land Contamination Questionnaire - Received 27/08/2021
Land Contamination Assessment 237170111_1_1 - Received 27/08/2021
Design Statement ET/6025 - Received 27/08/2021
Landscape and Visual Impact Assessment Lucy Batchelor-Wylam August 2021 - Received 27/08/2021

Planning Statement 2319/3 - Received 27/08/2021
Elevations - Proposed 6025_28B - Received 20/09/2021
Elevations - Proposed 6025_29A - Received 20/09/2021
Elevations - Proposed 6025_30A - Received 20/09/2021
Sectional Drawing 6025_24B - Received 27/09/2021
Heritage Statement ET/6025 - Received 27/09/2021
Ecological Survey/Report Greenlight September 2021 - Received 27/09/2021
3D/Axonometric Drawings - Received 04/10/2021
3D/Axonometric Drawings - Received 04/10/2021
Flood Risk Assessment 2828/RE/11-21/01 - Received 02/11/2021

Section B:

Mid Suffolk District Council as Local Planning Authority, hereby give notice that **PLANNING PERMISSION HAS BEEN REFUSED** for the development proposed in the application in accordance with the particulars and plans listed in section A for the following reasons:

1. UNSUSTAINABLE LOCATION

The proposed application site is within an area at risk of flooding or coastal change, being at risk of surface water flooding. Paragraph 11(d) footnote 7 of the NPPF therefore applies and the tilted balance is not engaged. The site being outside the settlement boundary is a determinative factor upon which the application turns. The proposal is therefore contrary to the NPPF (2021), Core Strategy Policy CS1, CS2 and saved policy H7 which seek to prevent new housing in the countryside and instead directs development to settlement boundaries closer and with better quality of access to services.

2. FAILURE OF THE SEQUENTIAL TEST AND INADEQUATE FLOOD RISK ASSESSMENT

The application site is within Flood Zone 1 and partly within an area identified as at risk of surface water flooding. The submitted Flood Risk Assessment fails to adequately demonstrate the extent of flood risk affecting the site. Furthermore the NPPF requires for all flood sources that a sequential approach to development is taken, whereby it must be demonstrated that there is no reasonably available alternative land at lower risk of flooding that could accommodate the development instead of the site proposed. The Council consider that there are reasonably available alternative sites across the district and there are no reasonable planning reasons to reduce the search area to this area or just the site. On this basis the sequential test has been failed.

The proposal is hereby refused given the conflict with Mid Suffolk Core Strategy Policy CS4 and paragraphs 161 of the NPPF.

SUMMARY OF POLICIES WHICH ARE RELEVANT TO THE DECISION:

CS04 - Adapting to Climate Change
NPPF - National Planning Policy Framework
CS01 - Settlement Hierarchy
CS02 - Development in the Countryside & Countryside Villages
CS05 - Mid Suffolk's Environment
FC01 - Presumption In Favour Of Sustainable Development
FC01_1 - Mid Suffolk Approach To Delivering Sustainable Development

GP01 - Design and layout of development
H03 - Housing development in villages
H07 - Restricting housing development unrelated to needs of countryside
H15 - Development to reflect local characteristics
H16 - Protecting existing residential amenity
H17 - Keeping residential development away from pollution
CL02 - Development within special landscape areas
CL08 - Protecting wildlife habitats
T09 - Parking Standards
T10 - Highway Considerations in Development

NOTES:

1. The proposal has been assessed with regard to adopted development plan policies, the National Planning Policy Framework and all other material considerations. The NPPF encourages a positive and proactive approach to decision taking, delivery of sustainable development, achievement of high quality development and working proactively to secure developments that improve the economic, social and environmental conditions of the area:

In this case the Local Planning Authority attempted to discuss its concerns with the applicant but was not able to secure the necessary improvements to the scheme that would have enabled the proposals to be considered more favourably.

2. The drawings/documents considered by the Local Planning Authority in determination of this application are listed under Section A above.

Babergh and Mid Suffolk District Councils have adopted Community Infrastructure Levy (CIL) charging which affects planning permissions granted on or after 11th April 2016 and permitted development commenced on or after 11th April 2016. If your development is for the erection of a new building, annex or extension or the change of use of a building over 100sqm in internal area or the creation of a new dwelling or holiday let of any size your development may be liable to pay CIL and you must submit relevant documents to our Infrastructure Team telling us more about your development, who will pay CIL and when the development will start. You will receive advice on the amount you have to pay and what you have to do and you can find more information about CIL on our websites here:

[CIL in Babergh](#) and [CIL in Mid Suffolk](#) or by contacting the Infrastructure Team on: infrastructure@baberghmidsuffolk.gov.uk

This relates to document reference: DC/21/04764

Signed: Philip Isbell

Dated: 6th December 2021

**Chief Planning Officer
Sustainable Communities**

Appeals to the Secretary of State

1. If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission or consent, or to grant permission or consent subject to condition, they may appeal to the Secretary of State for Communities and Local Government. The applicant's right of appeal is in accordance with the appropriate statutory provisions which follow:

Planning Applications: Section 78 Town and Country Planning Act 1990

Listed Building Applications: Section 20 Planning (Listed Buildings and Conservation Areas) Act 1990

Advertisement Applications: Section 78 Town and Country Planning Act 1990
Regulation 15

Town and Country Planning (Control of Advertisements) Regulations 2007

Notice of appeal in the case of applications for advertisement consent must be served within eight weeks of receipt of this notice. Notice of Householder and Minor Commercial Appeals must be served within 12 weeks, in all other cases, notice of appeal must be served within six months of this notice. If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within six months of the date of this notice, whichever period expires earlier.

Appeals must be made on a form which is obtainable from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online at <https://www.gov.uk/government/publications/modelnotification-notice-to-be-sent-to-an-applicant-when-permission-is-refused>

The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he/she will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him/her that permission for the proposed development could not have been granted by the Local Planning Authority, or could not have been so granted otherwise than subject to the conditions imposed by it, having regard to the statutory requirements*, to the provisions of the Development Order, and to any directions given under the Order. The Secretary of State does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him/her.

2. If permission or consent to develop land or carry out works is refused or granted subject to conditions, whether by the Local Planning Authority or by the Secretary of State and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development or works which has been or would be permitted they may serve on the Council of the district in which the land is situated, a purchase notice requiring the Council to purchase his interest in the land in accordance with the provisions of Section 137 of the Town and Country Planning Act 1990 or Section 32 Planning (Listed Buildings and Conservation Areas) Act 1990.

*The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely Sections 70 and 72(1) of the Act.