



Committee Report

Planning Committee - 10 March 2019

Application no DC/19/4450/FUL

Location

Hubbards Barn
Hubbards Hill
Peasenhall
Saxmundham
Suffolk
IP17 2LA

Expiry date 12 January 2020

Application type Full Application

Applicant Mr Jon Vander-Molen

Parish Peasenhall

Proposal Change of use from B1 (Office use) to C3 (dwelling house) including provision of a single storey rear extension.

Case Officer Iain Robertson
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1. Summary

- 1.1. Hubbards barn was previously used as office accommodation for V-M Orthotics. This business has since relocated to Halesworth business centre leaving the building vacant. Planning permission was granted last year for the change of use of the building to a holiday let unit. This permission has not been implemented but remains extant at this time.
- 1.2. The proposal is for the change of use from B1 (Office use) to C3 (dwelling house) including provision of a single storey rear extension.
- 1.3. The site is in an isolated location where special justification is required for residential dwellings as highlighted in paragraph 79 of the National Planning Policy Framework (NPPF) and the Council's adopted spatial strategy policies.

- 1.4. The application does not demonstrate that there is no current or long-term demand for the retention of this employment use, which is a requirement of the Local Plan. The application is recommended for refusal for the reasons given in section 9 of this report.
- 1.5. The application is before members as the referral panel considered that it was necessary for members to consider the loss of the employment use.

2. Site description

- 2.1. The application relates to Hubbards Barn, formerly this building served as an agricultural building in association with the surrounding land. Hubbards Barn is located outside of the settlement boundary of Peasehall, within an area of open countryside approximately 1 mile to the North of the village.
- 2.2. The building has been extended previously to facilitate the previous office use of the building. A field boundary has been planted in recent years, but the building still maintains its prominence in the landscape. A large curtilage is associated with this building, which is laid to grass; a small pond is situated to the rear of the building.

3. Proposal

- 3.1. The application seeks full planning permission for the change of use of the building from B1 (Office use) to C3 (dwelling house) including the provision of a single storey rear extension.
- 3.2. The existing access is to be retained from Heveningham Long Lane and the land within the existing field boundaries is proposed to form the garden curtilage to the dwelling.

4. Consultations/comments

- 4.1. No third-party representations received.

Consultees

Parish Council

Consultee	Date consulted	Date reply received
Peasehall Parish Council	9 December 2019	13 January 2020
Summary of comments: No objections.		

Statutory consultees

Consultee	Date consulted	Date reply received
Suffolk County - Highways Department	19 November 2019	28 November 2019

Summary of comments:
No objection subject to conditions.

Non statutory consultees

Consultee	Date consulted	Date reply received
Economic Development (Internal)	N/A	14 February 2020
Summary of comments: Internal - To be included within body of report.		

Consultee	Date consulted	Date reply received
Environmental Protection (Internal)	19 November 2019	19 November 2019
Summary of comments: No objection subject to standard Contaminated Land conditions.		

5. Site notices

General Site Notice Reason for site notice: General Site Notice
Date posted: 29 November 2019
Expiry date: 20 December 2019

6. Planning policy

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the Local Planning Authority's Development Plan, unless material considerations indicate otherwise.
- 6.2. The East Suffolk Council – Suffolk Coastal District Local Plan - Core Strategy and Development Management Development Plan Document was adopted in July 2013 and the following policies are considered relevant:
- SP7 – “Economic Development in the Rural Areas”
 - SP15 – “Landscape and Townscape”
 - SP19 – “Settlement Hierarchy”
 - SP29 – “The Countryside”
 - DM3 – “Housing in the Countryside”
 - DM10 – “Protection of Employment Sites”
 - DM13 – “Conversion and Re-Use of Redundant Buildings in the Countryside”
 - DM21 – “Design: Aesthetics”
 - DM27 – “Biodiversity and Geodiversity”
- 6.3. The East Suffolk Council - Suffolk Coastal District Local Plan - Site Allocations and Area Specific was adopted in January 2017 and the following policies are considered relevant:

- SSP2 – “Physical Limits Boundaries”

6.4. The emerging Suffolk Coastal Local Plan has reached an advanced stage in its production, and the Final Draft Local Plan (2019) was submitted under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012 in March 2019. Although currently of limited material weight, the following policies are considered relevant:

- SCLP5.3: “Housing Development in the Countryside”
- Policy SCLP4.4: “Protection of Employment Premises”

6.5 The following documents are a material consideration in planning decision-taking:

- National Planning Policy Framework (NPPF 2019)
- National Planning Policy Guidance (NPPG)

7. Planning considerations

Planning history/background:

7.1. Planning permission was originally granted for conversion of a former agricultural building to use as a holiday let, Ref: C/10/1465; at this time the proposal was to convert the original building without extensions, into a small unit. This did not take place and the applicant bought the building with the intention of using it as office accommodation for his business. A change of use to an office use, including the extension which exists today, was granted permission under ref: C/11/2812 and is the lawful use of the building.

7.2. Condition 2 of this permission removed permitted development rights for the change of use of this building, as follows:

"The premises herein referred to, shall be used for B1/B8 business purposes and for no other purpose (including any other purpose in the Schedule to the Town and Country Planning [Use Classes] Order 2005)".

7.3. Class O, Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 allows buildings in B1(a) use to change to C3 use without the requirement for formal planning permission. The applicant is required to apply to the local authority as to whether the prior approval of the authority is required.

7.4. However, the implications of condition 2 of planning permission ref C/11/2812 are that it would prevent the building from changing its use from B1 to C3 without further planning permission. Therefore, although this building may comply with the criteria of Class O, Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, it does not benefit from this permitted development right and planning permission for the change of use is therefore required; hence this application.

7.5. Most recently planning permission was granted for the change of use from B1 use to holiday accommodation including a single storey rear extension Ref: DC/19/0145/FUL. This permission has not been implemented and remains extant.

Principle:

- 7.6. The proposal lies outside of the settlement boundary for Peasenhall and thus is in the countryside for planning purposes. The key policies relevant to the consideration of this proposal are therefore those which relate to the development of housing in the countryside. Table 4.2 - which sits alongside Policy SP19 (Settlement Hierarchy) of the Suffolk Coastal Core Strategy and Development Management Policies (2013) - details that residential accommodation in the countryside will only be permitted in special circumstances, or where the proposal relates to housing in a cluster.
- 7.7. Policy SP29 (The Countryside) states that within the countryside the strategy in respect of new development is that *'it will be limited to that which of necessity requires to be located there and accords with other relevant policies of the Core Strategy (e.g. SP7 or DM17) or would otherwise accord with special circumstances outlined in paragraph 55 of the National Planning Policy Framework.'*
- 7.8. The proposal does not fall under sections (a) to (e) of Policy DM3, stated below.

Policy DM3 defines when dwellings may be permitted in the countryside. It defines these exceptions as:

- a) replacement dwellings on a one to one basis where they are no more visually intrusive in the countryside than the building to be replaced;*
 - b) the sub-division of an existing larger dwelling where this would meet a local need;*
 - c) affordable housing on 'exception' sites in accordance with policy DM1;*
 - d) conversions of existing buildings subject to certain controls (Policy DM13)*
 - e) Minor Infilling within clusters of dwellings well related to existing sustainable settlements (Policy DM4); or*
 - f) Development which would otherwise accord with the special circumstances outlined in paragraph 55 of the National Planning Policy Framework.*
- 7.9. Part (d) of the above policy and the relevant section of the NPPF (now paragraph 79 (c)) allows for the conversion of existing buildings. Policy DM13 states the criteria that conversion proposals will be assessed against. However, in this case, as this is an employment premises, it first needs to be demonstrated that there no current or long-term demand for the retention of the employment use. The mechanism for this is explained within policies DM10 "Protection of Employment Sites" of the Local Plan and Policy CLP4.4: "Protection of Employment Premises" of the Draft Local Plan.
- 7.10. Development Management Policy DM10 - "Protection of Employment Sites" states the following:

"Permission for the change of use or redevelopment of existing sites with an employment use, including small sites, to a non-employment use will be granted if either:

- a) the applicant has clearly demonstrated there is no current or long-term demand for the retention of all or part of the site for employment use:*
 - i. within the same use class;*
 - ii. for a mix of employment uses; or*
 - iii. for a mix of employment uses with other nonemployment uses, excluding residential; or*

b) there would be a substantial planning benefit in permitting alternative uses.

The form and details of the evidence submitted in support of an application, such as where and for how long a property has been marketed, should be agreed with the planning authority prior to the submission of an application."

- 7.11. Proposals for a change to residential use will only be considered where part (a) has been satisfied and only on sites within settlements that have a defined physical limits boundary.
- 7.12. Draft Local Plan Policy SCLP4.4: "Protection of Employment Premises" states that employment premises across the district will be protected for their established B class uses unless:

- a) Marketing evidence is provided which demonstrates that the premises have been marketed for a sustained period of 12 months in accordance with the requirements set out in Appendix E;*
- b) There would be substantial planning benefit in permitting alternative uses; and*
- c) The proposed use is compatible with the surrounding uses in terms of car parking, access, noise, odour and other amenity concerns.*

Proposals for loss of employment premises to be used for residential use will only be permitted in exceptional circumstances where there is no current or long term need for the premises and the site is within the defined Settlement Boundary.

- 7.13. This policy position is supported by the Council's Economic Development team who regret the loss of any commercial floor space to residential development and support the effective marketing of the building as a commercial opportunity for at least 12 months.
- 7.14. Policy DM10 requires that the form and details of the marketing evidence submitted in support of an application, should be agreed with the planning authority prior to the submission of an application. Emerging policy SCLP4.4 states that a marketing strategy should be carried out in accordance with the Council's guidance; neither approach has been taken in this instance.
- 7.15. Marketing guidance provided within Appendix E of the draft Local Plan states that the guide price for the property should be commensurate with the current market price for similar premises, derived from an expert RICS registered valuer or accredited member of RICS.
- 7.16. The property has been on the market since April 2019, which is less than the minimum requirement of 12 months. There is no evidence to suggest that RICS valuation has taken place. In the view of officers, the price at which the premises has been marketed (£495,000) does not reflect the lawful use of the building as office accommodation or the potential for use of the building as holiday let accommodation. Furthermore, there is an overage clause which states that if planning permission is subsequently granted for residential use of the building then 30% of the uplift in value will be repayable to the vendors. This clause would be in place for 30 years.

- 7.17. It is therefore considered that the applicant has failed to demonstrate that there is no current or long-term demand for the retention of the premises for employment use as required by policy DM10 of the Local Plan and Policy SCLP4.4 of the draft Local Plan.

Extension to building:

- 7.18. Although Policy DM13 focuses on the conversion of buildings an extension of the same form and appearance has been approved within the two previous permissions which are still extant. The extension as proposed is considered to respect the character and scale of the existing building as required by policy DM21 – “Design: Aesthetics”.

Landscape Impact:

- 7.19. The garden curtilage proposed is excessive in size and, in the interests of preserving rural landscape character, if the proposal was otherwise acceptable the domestic curtilage should be drawn quite tightly around the current parking area to the SW; the NW boundary no further NE than the large oak tree; and back towards the barn. The creation of a residential curtilage of this size would have a harmful impact on the character of the countryside due to the proliferation of residential paraphernalia into an area of open countryside, contrary to Policy DM13 (iii). At present, the size of the proposed residential curtilage would lead to an erosion of landscape character which would be contrary to Local Plan Policy SP15, which requires (inter alia) that development should protect and enhance the various landscape character areas within the district.

Other matters:

Ecology – Protected species:

- 7.20. Within a previous application Ref: C/11/2812 an ecology assessment identified that there was a colony of Great Crested Newts within the pond on the site and a suitable scheme of mitigation was proposed and was required by condition. A further survey has not been provided within this application, although it is very likely that the colony still exists on site. Ideally this information should be available at the time of determination to ensure that all material considerations can be taken into account, which would be in accordance with para 99 of circular 06/2005. However, as suitable mitigation was accepted previously it is considered that mitigation would be necessary and deliverable and therefore a condition could be imposed in these circumstances, should permission be granted.

European Sites Impact and RAMS:

- 7.21. This proposal is within scope of the Suffolk Coast Recreational Avoidance Mitigation Strategy as it falls within the 13 km 'zone of influence' for likely impacts and is a relevant residential development type as listed above. It is anticipated that such development in this area is 'likely to have a significant effect' upon the interest features of the designated European site(s) through increased recreational pressure, when considered either alone or in combination. Therefore, an up-front payment or unilateral undertaking for a sum of £321.22 is required. This payment has not been received. The proposal is therefore contrary to policies SP14 and DM27 (Biodiversity and Geodiversity).

Contaminated land:

- 7.22. A phase I ground assessment is required as this is a use sensitive to potential contamination. Should planning permission be granted then further investigation is required by condition.

8. Conclusion

- 8.1. Consent is sought for the change of use of the premises from B1 (Office) use to a single residential dwelling. Policy DM10 of the Local Plan seeks to retain such premises in employment use unless the applicant has clearly demonstrated there is no current or long-term demand for the continued use of the premises for employment purposes. This should be demonstrated by a marketing strategy that should first be agreed with the LPA or in accordance with the Council's guidance.
- 8.2. It is therefore considered that the proposal is contrary to adopted policy DM10 and emerging policy SCLP4.4 which seeks to protect existing employment uses.
- 8.3. Furthermore, the garden curtilage proposed is excessive in area and, in the interests of preserving rural landscape character, it should be reduced in size. The introduction of a residential curtilage of this size would have a harmful impact on the character of the countryside and would fail to protect or enhance the special qualities and local distinctiveness of the area contrary to the aims of Policies DM13 and SP15.
- 8.4. The proposal would deliver some limited benefits with the provision of an additional dwelling to housing supply and the limited economic benefits associated with this - such as the support for local shops and services from the occupants. However, the economic harm from the loss of an employment use and the impact on the character of the countryside from the creation of a large residential curtilage in this location would outweigh the benefits of this proposal.

9. Recommendation

- 9.1. That planning permission be REFUSED for the following reasons:
1. Consent is sought for the change of use of the premises from B1 (Office) use to a single residential dwelling. The applicant has failed to demonstrate that there is no current or long-term demand for the continued use of the premises for employment purposes. This should be demonstrated by a marketing strategy that should first be agreed with the LPA or in accordance with the Council's guidance.

The marketing that has been carried out is not sufficient and the proposal would therefore be contrary to the aims of Policy DM10 "Protection of Employment sites" and SP7 "Economic development in rural areas" of the East Suffolk Council - Suffolk Coastal District Local Plan - Core Strategy and Development Management Development Plan Document (Adopted July 2013).
 2. The garden curtilage proposed is excessive in size and fails to preserve rural landscape character. The introduction of a residential curtilage of this size would have a harmful impact on the character of the countryside and would fail to protect or enhance the special qualities and local distinctiveness of the area contrary to the aims of Policies DM13

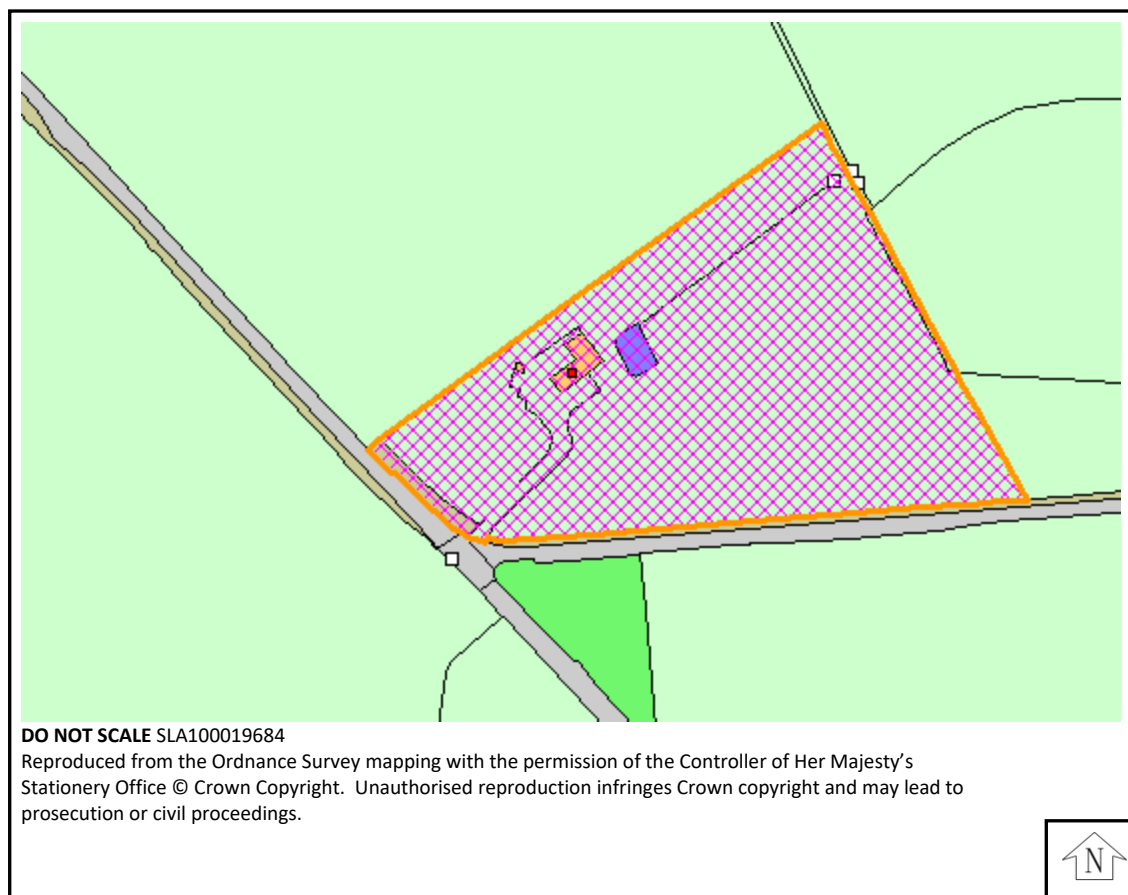
"Conversion and re-use of redundant buildings in the countryside" and SP15 "Landscape and Townscape" of the East Suffolk Council - Suffolk Coastal District Local Plan - Core Strategy and Development Management Development Plan Document (Adopted July 2013).

3. The development falls within the 13km protection zone of European Designated Sites. As set out in the emerging Suffolk Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Local policy DM27 seeks to support the Article 6(3) of the Habitats Directive where proposals that would cause a direct or indirect adverse effect (alone or combined with other plans or projects) to the integrity of internationally and nationally designated areas will not be permitted unless prevention, mitigation and where appropriate compensation measures are provided such that net impacts are reduced to a level below which the impacts no longer outweigh the benefits of development, the applicant has failed to submit relevant information in relation to potential disturbance caused by additional visitors to the European Designated Sites, or that there would be no harm or adverse impact, as such no screening assessment has been undertaken which is contrary to the 2017 Regulations which as a result the proposals are considered contrary to Policy DM27 "Biodiversity and Geodiversity" of the East Suffolk Council - Suffolk Coastal District Local Plan - Core Strategy and Development Management Development Plan Document (Adopted July 2013) and Section 15 of the NPPF.





Background information

See application reference DC/19/4450/FUL at <https://publicaccess.eastsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q0WXNRQX06O00>

Map



Key

-  Notified, no comments received
-  Objection
-  Representation
-  Support