

**Re Planning Application DC/20/1035/FUL
Land off Walnut Tree Avenue, Rendlesham**

OBJECTION ON BEHALF OF RENDLESHAM PARISH COUNCIL

Introduction

1. The Applicant has resubmitted this application, for which planning permission was refused last year. Even if the Applicant has now addressed the reasons for refusal of the first application, permission should still be refused: the previous reasons for refusal were insufficiently robust. The application is clearly contrary to the Development Plan, being contrary to the policy of the Rendlesham Neighbourhood Plan concerning the District Centre, within which the application site falls. The “tilted balance” from para. 11 of the National Planning Policy Framework does not apply: East Suffolk Council can demonstrate a 5-year supply of housing land. There are no reasons why this proposal should be granted permission contrary to the terms of the development plan.
2. A previous application for the same development was refused on 23 December 2019. The reasons for refusal did not grapple with the fundamental issues of the principle of housing development on this site. The Parish Council’s clear view is that this proposal should also be refused planning permission.

Compliance with the Rendlesham Neighbourhood Plan

3. The applicant acknowledges that the proposed application fails to comply (“a deviation”) with the Rendlesham Neighbourhood Plan (Planning Statement, 2.57).
4. Objective 1 of the Rendlesham Neighbourhood Plan is:

“To ensure that adequate community, retail, education and leisure facilities are provided to support the needs of the existing and future population of Rendlesham and its identified hinterland (surrounding parishes).”
5. The Neighbourhood Plan expresses concern at para. 8.04 regarding the “erosion of the centre of the village”. This is supported by Objective 1a, namely the prevention of

“further erosion of community provision within the central area of the village by the designation of a District Centre and the permitted use of land and buildings within it”.

6. Policy RNPP1 states:

“In the Rendlesham District Centre... the emphasis will be on maintaining or enhancing those uses and services the community has identified.

...

Proposals for redevelopment or change of use involving residential development will only be permitted where they maintain or enhance the existing or established employment, leisure, education, retail or community uses and future needs thereof.”

7. The need for protection of specified uses responded to a specific objection on the part of residents (para. 8.06). The policy protection is “to ensure the viability and sustainability of Rendlesham as a Key Service Centre for the life time of this plan and beyond” (para. 8.21). The Neighbourhood Plan reflects that the “ingredients for a thriving community go beyond just homes and people” (para. 8.22).
8. The Rendlesham Neighbourhood Plan does not suggest that no housing should be delivered in the village (paras 10.03, 10.10). However, the location of housing to be proposed is important.
9. The Officer Report for the previous refusal suggests that Figure 17 of the Rendlesham Neighbourhood Plan identifies an area that could be used for housing. With respect, this is a fundamental misunderstanding of the policy, such as would constitute a legal error. Figure 17 shows the damage done by housing within the village centre, stating “Further housing within envelope limits scope for future community development”.
10. Figure 17 is descriptive, rather than providing an allocation. The areas shown as housing in the village centre are now developed as Bay Tree Court, and Aspen Court and should not be considered in this proposal. To the extent that it shows a very small portion of the application site being described as “new housing” at the south west end of Walnut Tree Avenue, (which is fact now developed as Bay Tree Court) this was not intended to promote part of the Site for development.¹ In any event, on no view does Figure 17 identify “the southern half of the site” for housing (as was suggested in the Officer Report).

¹ And may be a slight inaccuracy in the plan, which, as stated, was for the purpose of showing how the Village Centre had been constrained, not to support housing use.

11. The policy for whether residential development should be permitted in the Rendlesham District Centre is RNPP1. The emphasis is to be on maintaining or enhancing identified uses (not including residential). The proposed development does not maintain or enhance existing or established employment, leisure, education, retail or community uses, and the future needs of those uses.² Indeed, the justification for the proposed residential development appears to be for the creation, not of existing or established uses, but of new retail units which are otherwise said to be unviable. This is not in accordance with policy RNPP1. As Figure 17 of the Rendlesham Neighbourhood Plan demonstrates, space in the village centre is limited. Taking up space with further residential development in this area would be contrary to RNPP1.
12. This approach is consistent with para. 85(d) of the NPPF, where it states that “[m]eeting anticipated needs for retail, leisure, office and other main town centre uses over [the next ten year] period should not be compromised by limited site availability”.
13. The proposed development is therefore contrary to the Rendlesham Neighbourhood Plan. The Council is not bound to the conclusion that it reached in the previous Officer Report regarding the acceptability of the site for housing. To view itself as bound by its previous conclusions would constitute an error of law.
14. The applicant relies heavily on what it refers to as a “proposed masterplan” (Planning Statement, para. 2.48). As the Parish Council explained in relation to its response to the previously refused application, this document is not part of the Neighbourhood Plan. Indeed, it is not even in the public domain. As the Court of Appeal made clear in *R (Cherkeley Campaign Ltd) v Mole Valley DC* [2014] EWCA Civ 567 at para. 16, when considering compliance with the development plan, it is necessary to consider compliance with policies rather than with supporting text (let alone with documents not incorporated within the development plan document).

² i.e. the future needs of those existing/established uses. It does not support new residential development to create e.g. new retail units.

15. For these reasons, the Parish Council contends that the scheme fails to comply with the key policy of the development plan concerning the site, and should therefore be refused permission.

Education

16. The Suffolk Coastal Local Plan Final Draft (January 2019) states at para. 12.710:

“Rendlesham Primary School is operating close to capacity and, considering [a proposed allocation for 50 dwellings] along with education forecasts, would be marginally over capacity during the first five years of the plan period. However, the provision of a greater proportion of housing designed to meet the needs of the elderly population or smaller dwellings could assist in addressing this. Farlingaye High School is currently operating over capacity with no immediate opportunities for expansion. A contribution will, therefore, be required through the Community Infrastructure Levy towards the creation of additional capacity at the proposed school at Brightwell Lakes to increase secondary education provision in the area.”

17. The Parish Council is concerned that the proposed development would increase the burden upon the Primary School, given that there is no indication that the proposed development would be designed so as to excludes school-age children.

Trees

18. The applicant’s Arboricultural Report acknowledges that “[a]fter the proposed removals, there will be just two principal trees on the site” (Summary, p.4). Furthermore, the “only mature tree within the site ownership is proposed for removal” (para. 4.3).
19. The conclusion reached is that “development can be accommodated on this site with minimal impacts on the arboricultural interest of the site” (para. 6.2). This is a striking conclusion, given that the proposal is to remove twelve trees, including five out of six surveyed at category B (the only tree surveyed at category A not in fact being on the site). The Practical Ecology Preliminary Ecological Appraisal Report described the trees on the site as having moderate ecological value, the highest level of ecological value on the site (3.2.2).
20. This is contrary to policy DM21(e) of the Suffolk Coastal Core Strategy, which requires layouts to incorporate and protect existing site features of landscape, ecological, heritage or amenity value, and policy DM27 regarding biodiversity and geodiversity. The loss of

established trees is also in tension with the Climate Emergency Declaration made by the Council (as well as the Parish Council).

21. Policy SCLP11.1(d) of the emerging Suffolk Coastal Local Plan Final Draft states that permission will be granted where proposals “[t]ake account of any important landscape or topographical features and retain and/or enhance existing landscaping and natural and semi-natural features on site”. By its widespread removal of established trees, the proposal does not do this.

Retail and Need

22. The Suffolk Coastal DC Core Strategy and Development Management Policies states at p.64 in relation to the level of retail provision at Key Service Centres:

“Small range of comparison and convenience shopping.
Emphasis will be on retention of existing provision.”

23. Put simply, there is no need for an additional supermarket in Rendlesham. Rendlesham is not a Town Centre. The existing Costcutter supermarket, which would serve a very similar purpose to the supermarket in the proposed development. The Design and Access Statement states at para. 11.02:

“There is an existing convenience Costcutter store within the shopping centre, although this is considered to under-represent the needs of the village”.

The well documented state of the support the villages shop under its new management has given the community in the current strained circumstances shows the shop “does adequately represent the needs of the village”.

24. It is also “considered there will be sufficient local customers to support both businesses” (para. 11.06). Neither assertion is supported by any evidence. The Parish Council is concerned that the proposed development would have an adverse impact upon the existing Costcutter. Policy SCLP4.12 of the emerging Suffolk Coastal Local Plan Final Draft states:

“Individual and groups of local shops, services and community facilities located outside of the designated centres will be protected where they are important to meet day-to-day needs of local communities.”

25. The existing Costcutter store should be protected from the potentially damaging impact of the proposed development.

Viability

26. The applicant relies heavily on issues of viability to justify residential development being provided on site. With respect, the Marketing and Financial Viability Report submitted with the application is not an impressive document and no weight should be placed upon it:

- (1) It does not reflect the proposed development. At 2.5 it describes a housing mix different to that applied for.
- (2) It is not clear that it is properly informed by the details of the proposal. At 2.5, it states that architects “have prepared a feasibility / lay out study providing a mainly retail development with adjacent residential properties”. Given that there has already been a full planning application for this scheme, it is not clear why the architects’ work is described as “a feasibility / lay out study”.
- (3) At 2.8, it is stated that flooding is not thought to be an issue, despite it being acknowledged on behalf of the applicant that infiltration devices would be suitable only at “significant depths” (Flood Risk Assessment and Surface Water Drainage Strategy at 3.15).
- (4) At 2.8, it is stated that land contamination is not thought to be an issue, despite the fact that it is acknowledged by the applicant that the site is contaminated (Planning Statement, para. 2.15).
- (5) At 2.12 and following, there is detailed consideration of “a proposed District Centre plan”. The applicant’s consultants continue to assess this, despite the Parish Council having made clear in its response to the previous application that this was (a) not part of the Neighbourhood Plan and (b) confidential. At 2.12, it is stated that “Rendlesham DC support the following proposed development...”. This is bizarre:
 - a. There is no such body as “Rendlesham DC”;
 - b. The development described is not in the Neighbourhood Plan;
 - c. In any event, the Rendlesham Parish Council, to which the consultants was presumably referring, is not the decision-maker in relation to a planning application.

The consultants have therefore carried out an assessment of a scheme which is not in the development plan, and nobody is promoting.

- (6) The consultants rely upon marketing undertaken (Section 3), and state that from a number of respondees, the outcome was that a proposal was not viable. However,

the consultants have not stated what sale price was quoted in the marketing exercise (the marketing particulars at Appendix VI state that guide prices are available on request).

- (7) The consultants have not made public their viability assessment of the application proposals. This is despite the terms of NPPF 57, which states “[a]ll viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available”.
- (8) The consultants do not refer to having carried out viability assessment of any scheme which would comply with Policy RNPP1, without the loss of part of the site to residential development.

27. As such, there is no evidence which supports the conclusion that a policy-compliant scheme could not come forward at the site.

Flooding and Drainage

28. The Officer Report for the previous application recommended refusal on the basis of a lack of information, as the Environmental Agency had not agreed that the use of deep infiltration for proposed drainage was acceptable.³ As far as the Parish Council is aware, the situation remains unresolved. Suffolk County Council, Flood and Water Management as recently as 10 March 2020 still recommend a holding objection, stating:⁴

“The reason why we are recommending a holding objection is because deep infiltration is proposed but has not agreed with the Environment Agency. SCC as LLFA will not assess this application any further until the principle of deep infiltration is agreed with the Environment Agency. If agreement is reached, please re-consult the LLFA.”

29. This issue is significant, given concerns with deep infiltration and soakaways in Rendlesham. The Parish Council is aware of the County Council’s holding objection to the use of infiltration in the Garden Square application (DC/19/1499/FUL). When the application went on appeal, the County Council and the applicant entered into a

³ The applicant’s current Flood Risk Assessment and Surface Water Drainage Strategy states at 3.15 that “[t]he ground investigation report findings suggest that the use of infiltration devices could be suitable for the site but only at significant depths”.

⁴ East Suffolk Drainage Board has suggested that the applicant consult the Environment Agency regarding its deep infiltration plans.

Statement of Common Ground, proposing disposal of surface water to an Anglian Water surface sewer.

30. Refusal of this application is justified on the basis of flooding and drainage. As the applicant's consultants stated by email to the Environment Agency (6 January 2020), "[i]t has been assessed that there are no other alternative methods of drainage disposal at the site, as there are no adequate sewers and/or watercourses in close proximity to the development and as such deep soakage infiltration is the only remaining drainage discharge method to serve the development".
31. As far as the Parish Council is aware, the Environment Agency has not substantively responded. Surprisingly, the only correspondence from the Environment Agency in Appendix 7 to the Auber Consulting Report consists of one email informing that the enquiry has been passed to the relevant team, and one email setting out what advice the Environmental Agency may be able to offer, including that a charged-for advice service is available.
32. It therefore appears that the fundamental point regarding flooding therefore remains to be resolved by the applicant, despite this having been raised in the Officer Report for the previous application.
33. Furthermore, the emerging Suffolk Coastal Local Plan Final Draft states at para. 9.59 of the Supporting Text "there is a tendency for required attenuation volumes to be accommodated below ground. In order to discourage this, preference should be given to the installation of blue-green surface infrastructure, as opposed to hardscape or underground solutions". This is reflected in Policy SCLP9.6, which states:
 - "Sustainable drainage systems should:
 - a) Be integrated into the landscaping scheme and green infrastructure provision of the development;
 - b) Contribute to the design quality of the scheme; and
 - c) Deliver sufficient and appropriate water quality and aquatic biodiversity improvements, wherever possible. This should be complementary of any local designations such as Source Protection Zones."
34. The proposed development does not respect this principle.

Highways and Access

35. The previous application was refused on grounds including insufficient information regarding highways. The Design and Access Statement for the resubmitted application acknowledges problems with the proposed development regarding access and parking.

At para. 6.07, it states:

“It is acknowledged the service vehicles will access the site via the general vehicular access off Walnut Tree Avenue, transit through the car park and cross over the pedestrian way to access the rear service yard. Whilst this is not an ideal solution, unfortunately, the owner of the general car park serving the current community precinct will not allow access via that car park off Sycamore Drive.

36. It is worth noting that the indicating delivery schedule (Design and Access Statement, para. 10.06) would have almost all deliveries taking place during the hours of operation of the store. This raises safety concerns. The suggestion that banksmen could be employed provides little comfort. NPPF 109 gives an unacceptable impact on highway safety as a reason for refusing development on highways grounds.

37. Policy DM19 of the Suffolk Coastal Core Strategy states:

“Proposals for all types of new development will be required to conform to the District Council’s adopted parking standards as set out in a Supplementary Planning Document.

However, in town centres and other locations with good access to public transport the District Council may make exceptions as a transport management tool or where it is impracticable to make parking provision on-site.

In such cases the Council may also, in order to allow the development to proceed, invite applicants to contribute to the provision of cycling provision, walking measures, public transport, or additional public car parking spaces in lieu of any shortfall in on-site car parking provision.

Footnote: In relation to Leiston see also paragraph 4.63”

38. The applicant still persists with a design containing a car parking court, despite the Highways Authority’s concerns about this mode of parking. Suffolk CC’s Parking Standards states at para. 4.3.1:

“Spaces within parking courts are too often not used and area often perceived as dangerous and insecure. ...

- Should be designed so that the resident’s parking space is located on the boundary of the rear garden. In this way residents are more likely to use the parking court, rather than parking in appropriate locations (e.g. on verges and pavements).”

39. This principle is not reflected in the development proposals. A number of the parking spaces do not border any of the properties. At 6.16, the Design and Access Statement acknowledges that the use of a communal parking area is suboptimal, but is required if

residential development is to be located on the site. The Parish Council's response is that residential development should not be located on the site.

Noise and Air Quality

40. The comments from the Environmental Protection Team recommend that a noise report is submitted, to determine whether noise would be detrimental to the amenity of neighbourhood properties. The Environmental Protection Team also raises the issue of the agent of change principle (encapsulated in NPPF 182).
41. The Officer Report from the previous refusal stated on p.16 “[t]here has been no noise report submitted as part of this application and will need to be submitted with any future application. As far as the Parish Council is aware, the applicant is still yet to submit a noise report.
42. The comments from the Environmental Protection Team recommends that an air quality assessment is carried out. The Officer Report from the previous refusal stated that an Air Quality Assessment “should be done in conjunction with the Environmental Protection Officers to be able to understand the full extent of any assessment”. Again, as far as the Parish Council is aware, this information has not been provided.
43. These matters, noise and air quality, were not specific reasons for refusal of the 2019 application. However, Officers were not satisfied at that stage of the level of information provided. No further information has since been forthcoming from the applicant, and this indicates that this would give rise to a reason for refusing the application.⁵

Conclusions

44. The Parish Council objects to this proposal in strong terms. This attempt to impose housing in an inappropriate location should be resisted. The proposal is contrary to a specific policy of the Neighbourhood Plan dealing with the site. As a letter from the

⁵ Although the previous Officer Report suggests that this information could be required as a matter of condition, issues of noise and air quality go to the principle of development and therefore the information should be provided to the Council before it decides whether to grant planning permission.

Secretary of State for Communities and Local Government to the constituency MP stated last month:

“‘Made’ neighbourhood plans form part of the statutory development plan and become the starting point in making planning decision. By law, planning applications are determined in accordance with the local development plan, unless material considerations indicate otherwise.”

45. The proposal is contrary to the development plan, and there are no material considerations which indicate that permission should be granted notwithstanding this.
46. The Applicant has still failed to provide sufficient information in relation to noise and air quality, and to obtain the approval of the Environment Agency in relation to sustainable drainage. In highways terms, the means of delivery cause safety concerns, and there is an undesirable use of a parking court. The Applicant’s evidence on viability is misconceived and no weight should be placed upon it. There is no need for the development in retail terms. The proposals would lead to the loss of established trees, contrary to policy. The Council can demonstrate well in excess of a five-year housing land supply. There are concerns in terms of the demands which would be placed on education provision.

ALISTAIR MILLS
Landmark Chambers
Friday, 27 March 2020