

PLANNING COMMITTEE – 27 MAY 2021

PART I - DELEGATED

- 13. 21/0850/PIP – Permission in Principle: Change of use to residential and construction of two single storey houses with associated residential curtilages at CHRISTMAS TREE FARM, DEADMANS ASH LANE, SARRATT, HERTFORDSHIRE (DCES).**

Parish: Sarratt Parish Council

Ward: Chorleywood North and Sarratt

Expiry of Statutory Period: 04.06.2021 (Agreed Extension)

Case Officer: Freya Clewley

Recommendation: That Permission in Principle be Refused.

Reason for consideration by the Committee: A District Councillor is a neighbour of the application site.

1 Relevant Planning History

- 1.1 15/0285/PDA – Prior Notification: Change of use of existing agricultural barn to one self-contained residential dwelling with external works – Refused 07.04.2015. Reason for refusal:

The development is not 'permitted development' under Part 3, Class MB of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) as planning permission 8/614/93 removes permitted development rights by restricting the use of the barn for no purpose other than the storage of crops fodder and agricultural machinery.

Consequently, the proposal cannot be determined through the Prior Notification procedure and planning permission is required for the change of use of the agricultural barn to one self-contained residential dwelling.

Appeal allowed 13.02.2016.

- 1.2 15/2543/PDA - Prior Notification: Change of use of existing agricultural building to one self-contained residential dwelling (Class C3) with external works – Permitted 18.02.2016.

2 Description of Application Site

- 2.1 The application site is irregular in shape and includes a previously converted agricultural barn which is now in residential use, and agricultural land located on the northern side of Deadmans Ash Lane, Sarratt. This part of Deadmans Ash Lane is a rural lane characterised by agricultural buildings with some large residential dwellings of varying architectural styles and designs, situated on large spacious plots.
- 2.2 The neighbour to the north, Tobys, is a residential dwelling set in from the shared boundary with the application site. There are ancillary buildings located to the rear of this neighbour. The neighbour to the south, Oak Tree House, is set in approximately 35m from the southern boundary of the application site.

3 Description of Proposed Development

- 3.1 This application seeks Permission in Principle (PIP) for the change of use from agricultural to residential and erection of two dwellings at Christmas Tree Farm, Deadmans Ash Lane.

4 Consultation

4.1 Statutory Consultation

4.1.1 Sarratt Parish Council: No response received.

4.1.2 National Grid: No response received.

4.1.3 Environment Agency: No response received.

4.2 Public/Neighbour Consultation

4.2.1 Statutory publicity requirements for these applications are for a site notice to be displayed, and information regarding the application to be published on a website maintained by the LPA. The information available online is available continually from the date an application is validated.

4.2.2 Site Notice: Expired: 12.05.2021.

5 Reason for Delay

5.1 Committee cycle.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

In 2019 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

The NPPF states that ‘good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would ‘significantly and demonstrably’ outweigh the benefits.

6.2 The Three Rivers Local Development Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies CP1, CP2, CP3, CP4, CP8, CP10 and CP11.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM2 and DM6.

Affordable Housing Supplementary Planning Document (adopted June 2011).

6.3 Other

The Town and Country Planning (Permission in Principle) (Amendment) Order 2017.

Planning Practice Guidance (PPG).

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

7 **Planning Analysis**

7.1 Permission in Principle - Background

7.1.1 This application is made pursuant to the Town and Country Planning (Permission in Principle) Order 2017 (as amended) (PIP regulations) that provides opportunity for an applicant to apply as to whether permission in principle (PIP) is acceptable for a site, having regard to specific legislative requirements. The NPPG explains (paragraph ref. 58-012-20180615) that the scope of PIP is limited to location, land use and amount of development. Issues relevant to these 'in principle' matters should be considered at the PIP stage. Other matters should be considered at the technical details consent stage.

7.1.2 The PIP consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. PIP establishes that a particular scale of housing-led development on a defined site is acceptable. The aim is for a PIP to minimize the upfront and at-risk work of applicants.

7.1.3 Planning practice guidance explains that should PIP be granted, the site must receive a grant of technical details consent before development can proceed. The granting of technical details consent has the effect of granting planning permission for the development. Other statutory requirements may apply at that stage such as those relating to protected species.

7.2 Consideration of Location

7.2.1 Core Strategy Policy CP2 advises that in assessing applications for development not identified as part of the District's housing land supply including windfall sites, applications will be considered on a case by case basis having regard to:

- i. *The location of the proposed development, taking into account the Spatial Strategy,*
- ii. *The sustainability of the development and its contribution to meeting local housing needs,*
- iii. *Infrastructure requirements and the impact on the delivery of allocated housing sites, and*
- iv. *Monitoring information relating to housing supply and the Three Rivers housing targets.*

7.2.2 The application site is located outside of the main settlement boundaries and is not located within any of the Settlement Hierarchies as set out within the Core Strategy. The application

site is not allocated in the development plan and is located in a relatively unsustainable location for transport or local services, albeit close to limited services in Sarratt and close to dwellings in residential use and is not previously developed land. The proposed development is not considered to be isolated as per paragraph 79 of the NPPF.

- 7.2.3 The application site is located within the Green Belt and it is considered that this is a relevant material consideration in assessing the acceptability of the location of the development. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness. Green Belts can shape patterns of urban development at sub-regional and regional scale, and help to ensure that development occurs in locations allocated in development plans. They help to protect the countryside, be it in agricultural, forestry or other use.
- 7.2.4 Paragraph 145 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:
- a) buildings for agriculture and forestry;
 - b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
 - c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
 - d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
 - e) **limited infilling in villages;**
 - f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
 - g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority
- 7.2.5 Policy CP11 of the Core Strategy and Policy DM2 of the DMP LDD relate to development within the Green Belt and reflect the guidance as set out in the NPPF. The application site is within agricultural use, and as such, it not considered to be previously developed land. The application site has historically been granted prior approval for the conversion of an agricultural building to a residential dwelling, thus reaffirming this agricultural use. Therefore, it is considered that the only applicable exception outlined at paragraph 145 of the NPPF is e).
- 7.2.6 As noted above, the NPPF identifies that limited infilling in villages, and limited infilling or the partial or complete redevelopment of previously developed land may not be inappropriate. The Oxford Dictionary defines a village as a group of houses and associated buildings, larger than a hamlet and smaller than a town, situated in a rural area. It defines a hamlet as a small settlement, generally one smaller than a village, and strictly (in Britain) one without a Church.
- 7.2.7 It is recognised that in the appeal at The Annexe, Quickmoor Lane, Bucks Hill (APP/P1940C/17/3188815) the Inspector noted that... *“While there are a number of houses in the area, including close by, the facilities that help to make a village are extremely limited.*

There is a public house, but even this is a long walk from the appeal site along an unlit lane, with no footpath. I note the appellant and others do walk to the next village where there are facilities including a bus service. The walk does not just use the roads, but the footpath system. While I accept this, part of the walk is narrow, unlit lanes and the distance is not such that this can be considered a reasonable or normal walk and likely to be undertaken on a routine basis by many people". "In my view, this is not a sustainable location for a dwelling and should not be considered as a village."

- 7.2.8 Sarratt is a built up settlement which falls within a village as defined by place shaping Policy PSP4 of the Core Strategy. Sarratt is a distinct settlement and is physically separated from the smaller settlements of Belsize and Chipperfield by open fields and woodland. Whilst the application site is located closer to the core of Sarratt than the above example, the application site is located in a more sparsely developed part of Sarratt, further from the local amenities and connections of the village. With that in mind, the fact that any walking would be along an unlit road, with limited pedestrian paths between settlements given the separation due to the open countryside, there would be reliance on vehicles for travel. It is therefore not accepted that the application site is within a village, albeit closer to the core of Sarratt than the appeal site referred to above.
- 7.2.9 Notwithstanding the above, in terms of the second matter of limited infilling, the NPPF does not define what limited infilling is. Having regard to previous appeal decisions it could be taken as small-scale development which fills a gap in between dwellings. When considering that the site is open and is situated adjacent to proliferation of ancillary buildings, rather than within an existing linear pattern of built form, the development proposed would not be classed as infilling. The proposal would include the construction of two dwellings and as such is considered to be limited and having regard to the size of the plot, it would appear that the two dwellings would comfortably fit within the confines of the site; however, other such considerations highlight that the scale of the dwellings proposed are excessive and not considered as a limited infilling including following the line of built form and given the surrounding fields/countryside surrounding the site. As such, the proposed development would not be considered to constitute infill development and would result in the encroachment of built form closer to the open landscape. This approach in determining 'infill' has also been outlined by the appeal inspector for a decision at Fir Trees, Dawes Lane (APP/P1940/W/17/3181287) who outlined that '*Whilst there is a line of buildings on the site's north-eastern boundary, the other boundaries are largely open. The proposal would not be just filling gaps between existing buildings.*'
- 7.2.10 The PPG states that openness is capable of having both spatial and visual aspects whilst the duration of the development and degree of activity likely to be generated, such a traffic generation are factors to consider.
- 7.2.11 As it stands the application site is open in character and as such has a limited impact on openness, both spatially and visually. However, there are other factors which need to be taken into account such as on-site activity, traffic and noise and disturbance, which collectively do impact openness across the site.
- 7.2.12 No case has been put forward that the proposed development would be located on previously developed land. The site currently consists of open land and is undeveloped. The introduction of two detached dwellings with associated residential curtilages, paraphernalia, access, parking and intensification of use would impact on the openness of the Green Belt in comparison to the open and rural character of the existing site, and would result in an encroachment of built form into the countryside. The application site does not constitute previously developed land. Nevertheless the proposal would also have a greater harm to openness and therefore would not fulfil this exception.
- 7.2.13 Furthermore, it is considered that the introduction of two detached dwellings extending across the plot would, by virtue of the height, design, volume and spread of development,

have a significant adverse impact on the openness of the site when compared with the existing arrangement.

- 7.2.14 There would be an increase in number of trips to and from the site and the proposal would also result in a notable increase in noise and disturbance to neighbouring properties when compared to the existing use given the introduction of residential activities.
- 7.2.15 Paragraph 146 adds that certain other forms of development are not considered to be inappropriate which includes material changes of use in land. The proposal would result in a change of use to residential, which would result in a significant encroachment into the countryside, particularly when considering the siting of the dwelling which would be set back further from the application site frontage. In addition, the associated curtilages, hardstanding and parking and residential paraphernalia would have a greater impact on openness and therefore fails to meet this exception. Therefore the proposal would constitute inappropriate development in the Green Belt and fails to meet any of the exceptions defined within Paragraph 145 or Paragraph 146.
- 7.2.16 The proposed development would therefore constitute inappropriate development and would also result in actual harm to the openness Green Belt. Paragraph 144 of the NPPF states 'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting front the proposal, is clearly outweighed by other considerations'.
- 7.2.17 No material planning considerations have been advanced by the applicant which would constitute very special circumstances. The LPA has not been able to identify any very special circumstances.
- 7.2.18 In summary, the proposed development would constitute inappropriate development which, by definition, would be harmful to the Green Belt proposal would also result in actual harm to the openness of the Green Belt. The proposed development would therefore fail to preserve the openness of the Green Belt and would be contrary to Policy CP11 of the Core Strategy, Policy DM2 of the DMP LDD and the NPPF.

7.3 Consideration of Land Use

- 7.3.1 Policy CP3 of the Core Strategy stipulates that housing development should make the most efficient use of land, without compromising the quality of the environment and existing residential uses.
- 7.3.2 Paragraph 110 of the National Planning Policy Framework sets out that developments should 'respond to local character' and Policy CP1 of the Core Strategy requires development to take into account the need to 'protect and enhance our natural, built and historic environments from inappropriate development' and to 'promote buildings and public spaces of a high enduring design quality that respect local distinctiveness'. Policy DM6 states that 'development proposals on sites which contain existing trees will be expected to retain as many trees as possible, particularly those of local amenity or nature conservation value.
- 7.3.3 Given the concerns raised above, in relation to the impact of the proposal on the Green Belt by virtue of the inappropriate nature of the development within the Green Belt which is harmful by definition, and the impact of the development on the openness of the Green Belt, in this particular case the use of the land for housing led development is not considered acceptable.

7.4 Consideration of Amount

7.4.1 The proposed development would result in a net gain of two dwellings on the site. The application site is not identified as a housing site in the Site Allocations LDD (SALDD) (adopted November 2014) and would therefore be considered as a windfall site. As advised in the SALDD, where a site is not identified for development it may still come forward through the planning application process where it will be tested in accordance with relevant national and local policies.

7.4.2 With regards to the principle of the construction of two dwellings, given the site layout the proposed plots would have a plot size of approximately 916sqm respectively. This would be comparable to other plot sizes on Deadmans Ash Lane. Although the plots would comprise a greater width and smaller depth in comparison, this would not justify a reason to refuse development in principle.

7.4.3 It is therefore considered that the application site could physically accommodate two dwellings and therefore the amount of development would be acceptable in this regard. However, whilst the site would have the ability to accommodate the amount of development, this does not overcome the identified harm to the Green Belt outlined above.

7.5 Others Matters

7.5.1 Design

Notwithstanding the above, the scale, layout, appearance of the proposed dwellings including issues of landscaping and the full impact of the character of the area are not under consideration at this stage. This will be determined at the technical details stage.

7.5.2 Residential Amenity

At this stage Officers need to be satisfied at that the site is capable of accommodating the amount of development proposed without having a detrimental impact on neighbour's amenity. Given the siting of the proposed dwellings and the spacing between the proposed dwellings and neighbouring properties, it is considered that the site is capable of accommodating the amount of development proposed without having a detrimental impact on neighbouring amenity.

7.5.3 Highways

The PIP regulations prohibit any form of conditions being imposed to this development. The Highways Officer would be consulted on any subsequent technical details consent application, and any information requested would need to be submitted as part of these subsequent applications.

7.5.4 Affordable Housing

Policy CP4 of the Core Strategy requires development that would result in a net gain of one or more dwellings to contribute to the provision of affordable housing. Developments resulting in a net gain of between one and nine dwellings meet the requirement to provide affordable housing through a financial contribution. Details of the calculation of financial contributions in lieu of on-site provision of affordable housing are set out in the Affordable Housing Supplementary Planning Document. The Affordable Housing Supplementary Planning Document (AHSPD) was approved by the Council in June 2011 as a material consideration and supports implementation of Core Strategy Policy CP4. However, it is noted that the considerations for applications for PIP are limited to location, land use and amount. The matter of affordable housing contributions would therefore fall to be considered at the technical details stage

7.6 Tilted Balance

- 7.6.1 The LPA cannot currently demonstrate a 5 year housing land supply, and therefore paragraph 11 of the NPPF is engaged. Paragraph 11 and footnote 7 clarifies that in the context of decision-taking "the policies which are most important for determining the application are out-of-date when the LPA cannot demonstrate a five year supply of deliverable housing sites". The most important policies for determining a housing application are considered to be Policies CP2 (Housing Supply) and CP3 (Housing Mix and Density). Paragraph 11 continues, "Plans and decisions should apply a presumption in favour of sustainable development...where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: a) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or b) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole." The application site is located within the Metropolitan Green Belt and as such relevant policies apply.
- 7.6.2 The NPPF identifies that there are 3 dimensions to sustainable development: social, economic and environmental. The applicant submits that the proposal would constitute sustainable development with increased use of local services that renewable energy methods would be incorporated into the development and the new residents would add in supporting the local community. In terms of economic benefits, the LPA considers there would be very limited short term benefits as a result of construction activities, and benefits resulting from the expenditure of new residents locally. The proposal would also make limited social benefits in terms of the provision of two new dwellinghouses.
- 7.6.3 However, for the reasons stated above, the development would result in inappropriate development within the Green Belt and actual harm to openness with no very special circumstances existing to outweigh that harm. The proposal therefore fails to accord with Para 145 of the NPPF, and having regard to paragraph 11 of the NPPF, Para 145 provides a clear reason for refusing the development proposed. The net gain of two dwellings would only provide a minor uplift in the number of market houses in the District. The adverse impacts of the proposed development on the Green Belt, would significantly and demonstrably outweigh the very limited benefits of the proposal. Additionally, there is a clear reason in refusing the application given the conflict with an asset of particular important, the Green Belt. As such, paragraph 11 does not take effect.

8 Recommendation

8.1 That PERMISSION IN PRINCIPLE BE REFUSED for the following reason:

R1 The proposed development would fail to comply with any of the exceptions as set out within Paragraphs 145 and 146 of the NPPF (2019) and therefore would be inappropriate by definition. The development would also result in the intensification of the use of the site and the encroachment of substantial built form within the open and rural landscape and would result in significant demonstrable harm to the openness of the site and Green Belt. No very special circumstances exist to outweigh the harm to the Green Belt by virtue of its inappropriateness and harm to openness. On this basis, the location and land use proposed are considered unacceptable, and the proposed development would be contrary to Policy CP11 of the Core Strategy (adopted October 2011), Policy DM2 of the Development Management Policies LDD (adopted July 2013) and the NPPF (2019).

8.2 **Informatives:**

I1 The Local Planning Authority has been positive and proactive in considering this planning application in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority

encourages applicants to have pre-application discussions as advocated in the NPPF. The applicant and/or their agent did not have formal pre-application discussions with the Local Planning Authority and the proposed development fails to comply with the requirements of the Development Plan and does not maintain/improve the economic, social and environmental conditions of the District