



# Rutland County Council

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**PLANNING AND LICENSING COMMITTEE Thursday, 28th April, 2022**

## **AGENDA SUPPLEMENT**

### **4) PLANNING APPLICATIONS**

To receive an appendix to Report No. 83/2022 relating to application 2021/1423/MAO that was originally intended to be circulated with the main agenda.

(Pages 3 - 8)

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Mr Nick Hodgett – Principal Planning Officer  
 Rutland County Council  
 Catmose  
 Oakham  
 Rutland  
 LE15 6HP

Tuesday 12<sup>th</sup> April 2022

Our Ref.: CG/LANG/220412

Your Ref.:

Dear Mr Hodgett,

**PLANNING APPLICATION REF. 2021/1423/MAO - ERECTION OF UP TO 50 NO. DWELLINGS WITH ASSOCIATED ACCESS, HIGHWAYS, OPEN SPACE AND DRAINAGE INFRASTRUCTURE (ALL MATTERS RESERVED EXCEPT ACCESS) - LAND ON THE NORTH SIDE OF COLD OVERTON ROAD LANGHAM RUTLAND**

**Introduction**

Further to the recent decision of Rutland County Council ('the Council') to remit the above referenced planning application for further consideration of the Planning and Licencing Committee ('the Committee') on Thursday 28<sup>th</sup> April 2022 ('the Special Committee Meeting'), I write to you on behalf of Langton Homes Limited ('the Applicant') with a number of points of clarification and material considerations that we believe relevant to the further presentation of the application. As such, we would be grateful if you could kindly circulate the below to Members in advance of the Special Committee Meeting. As previously stated, the application seeks to deliver much needed new housing – including a policy compliant provision of Affordable Homes – within a sustainable location at a time when the Council does not have its own up-to-date development plan and cannot identify the necessary supply of housing land to meet national requirements.

There are also significant further benefits to the scheme through:

- (i) provision of considerable highway improvements including the improved pedestrian footway to Cold Overton Road which will enable a circular walking route to be created in conjunction with

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the committed development to the east of the application site, and the carriageway narrowing feature on Cold Overton Road which the County Council itself identified as a positive element of the scheme;

- (ii) substantial biodiversity gains well in excess of the targets soon to come into force as part of the Environment Act; and
- (iii) necessary financial contributions to local services and infrastructure through Community Infrastructure Levy payments.

### **The March Committee Meeting**

The application, as presented to Members of the Committee, was recommended for approval by yourself in light of there being no planning objections arising from the statutory consultations and all aspects of the development being considered acceptable, subject to agreed conditions and mitigation.

Unfortunately (notwithstanding that positive recommendation) the Committee – in debating the issues - mis-interpreted and /or failed to apply key paragraphs of the national planning policy framework (**NPPF**), as well as taking into account irrelevant considerations, and failing to act consistently in its approach towards materially similar applications.

Despite your reasoned assessment of the planning position and your positive recommendation, , a resolution by Members was passed by five votes to four *to refuse* the application. The seriousness of the flaws in the decision-taking on that occasion were the subject of legal correspondence between specialist planning lawyers instructed by the applicant , and the Council’s Interim Monitoring Officer.

This has established that the decision taken at the March Committee meeting was not a lawful decision which it was open to the Committee to make in light of these errors and misconceptions, and the Special Committee Meeting has been convened accordingly.

### **The Draft Langham Neighbourhood Plan**

As accepted by the Council within the letter dated Tuesday 5<sup>th</sup> April 2022 from the Interim Monitoring Officer, the resolution was made following factually incorrect information on the status of the draft Langham Neighbourhood Plan (‘LNP’). It has since been established that the draft LNP is still some way from beginning the Regulation 16 consultation under the Neighbourhood Planning (General) Regulations 2012 and as such can be afforded no real weight. In fact, the Parish Council has now itself accepted<sup>1</sup> that the regulation 16 stage is still some weeks off *even being started; that is very far from the impression Members were unfortunately given during the March Committee when it was suggested that not only had the regulation 16 stage been completed, but the entire plan-making process was all-but-finished.*<sup>2</sup>

The reality is that of the seven formal stages of neighbourhood plan-making, the LNP has proceeded no further than the third stage :

- i) designating a neighbourhood area;
- ii) pre-submission preparation and consultation;

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<sup>1</sup> This is recorded on the Parish Council’s own website, which I consulted on 05.04.2022

<sup>2</sup> The expressions “eleventh hour” and even “ten past eleven” were used to suggest this.



- iii) submission of a proposal;
- iv) consideration by an independent examiner;
- v) consideration of the examiner's report;
- vi) holding a local referendum;
- vii) making the plan.

Not only is the draft LNP still to be thoroughly assessed, but we believe that : (a) there were already serious flaws within it; and (b) there is now in any event a major new material planning consideration which will necessitate major revision to the housing policies in the draft LNP.

### **The Council's New Housing Requirement for Langham**

Firstly, looking at the housing targets set out within the LNP, it is stated that the Council recommend a requirement of 51 new homes within Langham across the plan period. This is based upon the minimum requirement of only 130 dwellings per annum across the County, as set out in the Core Strategy DPD.

However, during the Cabinet meeting of Tuesday 5<sup>th</sup> April 2022, the Council have agreed on the Issues and Options Consultation document, in which it has been accepted that the updated Local Housing Need for Rutland is now calculated as at least 142 new homes per annum. This is the minimum number that the Council can use as the basis of preparing their new Local Plan and will, consequently, **see the minimum housing requirement for Langham increase to 56 new dwellings** over the proposed plan period.

However, the Council also accept that the figure of 140 dwellings per annum (plus 10%) may still result in Rutland *falling short* of meeting affordable housing needs. As such, it has put forward options in line with the Strategic Housing Market Assessment ('SHMA') analysis for both 160 dwellings (plus 10%) and 190 dwellings (plus 10%) per annum – with the latter accepted as likely to meet the identified needs more fully for affordable housing across the county. These realistic options would therefore result in the housing requirement for Langham increasing to a minimum of 65 and 78 new dwellings respectively.

We believe that this is a material consideration with regard to the subject application, which seeks much needed development with a policy compliant provision of affordable housing, and should be considered as such by Members of the Committee.

### **The Relevance of the Adjacent Site : A Committed Scheme**

The draft LNP also states that the residual requirement for the village should be 18<sup>3</sup> new dwellings across the plan period, taking into account a quantum of windfall sites coming forward and the approval of 18 dwellings on the land adjacent to the application site. However, it should be noted that the housing figure recommended to the Langham Neighbourhood Plan group by the Council *took full account of the planning commitments as of 1<sup>st</sup> April 2021*.

The adjacent site received outline consent following the unanimous approval by the Committee in October 2020 and, as such, *has already been factored into the housing requirement* recommended by the Council.

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<sup>3</sup> Calculated as follows : 51 minus 15 windfall units minus 18 units on the adjacent site = 18 units still be provided for.



It is therefore clear that the draft LNP attempts to 'double count' the delivery of the commitments and subsequently does not include allocation to full address the required minimum housing requirement – even prior to the previously discussed increase. The Parish Council was - with respect - wrong to mislead Members in relation to this.

### **The Absence of “Planning History” for the application site**

Looking further at the discussions which took place during the Committee of Tuesday 15<sup>th</sup> March 2022, it was claimed there had been previous applications made and subsequently refused by the Committee on the application site, which set somewhat of a benchmark for the determination of the subject application. Unfortunately, this claim appeared to be incorrectly substantiated despite the clear and accurate statement within your report that there is no relevant planning history for the site, and there has not been a refusal on the site in the past.

We would be grateful if this point could be clearly clarified to Members in advance of the meeting.

### **The NPPF : the “tilted balance”**

In addition, whilst it is accepted that the application site lies outside of the designated 'Planned Limits to Development' for Langham, these are to be considered out-of-date on the basis that the Council has no up-to-date Local Plan nor a sufficient five-year housing land supply ('5YHLS') meaning that Paragraph 11(d) is fully engaged.

The Secretary of State's policy is that planning permission should be granted for sustainable housing development without delay in these circumstances.

The application seeks development that adjoins the existing built form of the village, as well as that already consented on the adjacent land to the east. As such, the 'Open Countryside' location of the site cannot be considered a justified reason for refusal of the scheme.

Paragraph 11d spells out that if development is proposed in certain protected landscapes including “areas of outstanding natural beauty” and the “green belt” the tilted balance in favour of residential development would not apply. That list of protected landscapes and areas does not include the general countryside<sup>4</sup>. It is not the policy of the Secretary of State to treat the countryside in general as if it were a landscape requiring special protection in this context – on the contrary – the urgent need to boost the supply of housing in England is clearly given priority in the NPPF.

When the planning permission was granted for the adjacent site moreover no one suggested that the countryside location precluded any development here.

### **Sustainability : Village Shop**

Discussion by Members during the meeting also focused upon the perceived unsustainability of the village of Langham, specifically in relation to the lack of a convenience shop.

It should however be clarified that the Council itself identifies Langham – with its current provision of service and amenities – as one of the 'Local Service Centres' recognised to support Oakham and Uppingham in the delivery of new housing development in the presence of the ongoing housing crisis. As

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<sup>4</sup> The application is not in a protected landscape for these purposes, and it was quite wrong to suggest – as was stated during the Member discussion – that the application site is in the “green belt”. That is simply not the case.



such, the current level of services and amenities are deemed appropriate *by the Council* to accommodate growth in line with the minimum requirement set out by the updated Local Housing Need for Rutland calculations.

In addition, the provision of charges secured as part of the proposed application scheme through the Community Infrastructure Levy ('CIL') could be utilised to secure further enhancement to the level of amenities if justified.

On this matter, the 'made' LNP 2017 includes a proposal (CE1a) which states that CIL monies be made available to support the establishment of a village shop, and parish Business Hub, subject to a positive viability study. However, the proposal is absent from the emerging draft LNP, replaced with a provision to 'ask ideas from the community as to where best to spend' CIL money. As such, it is clear to see that the desire locally for a shop has weakened and therefore cannot be justified as a reason to refuse this application.

Whilst we fully believe that the CIL provisions set out a clear mechanism in assisting with the establishment of any future village shop, should Members still feel that a facility is required to mitigate the impact of the proposed development then the Applicant would accept a suitably worded condition and we will put forward wording for this shortly (without prejudice to our own view that the absence of a shop could never justify the refusal of planning permission for this proposed development).

Once again, the approval of 18 new homes for the adjacent site despite the lack of a village shop demonstrates that the Council itself does not in fact believe that the absence of such a shop makes Langham an unsustainable location for housing.

### **Ecology**

We have also given consideration to a number of other points raised by Members at the previous Committee meeting, namely the ecological/biodiversity impact and the established tree boundary to the south of the application site.

On the aspect of ecology, we endorse the response received by the statutory consultee on this matter confirming that it has been satisfactorily addressed through preliminary surveys and acceptable conditions. Based upon professional calculations, using the preferred and accepted DEFRA Biodiversity Metric 3.0, the proposed development of the site achieves an increase of 4.69 habitat units and 1.24 hedgerow units, an increase of 53.47% and 15.74% respectively. This feasible net gain would far exceed the mandatory increases of 10% intended through the recent Environment Act, which come into effect in 2023. Finer detailing of the landscape proposals will be determined through any subsequent Reserved Matters application for the site, which would also include a management plan that sets out a realistic timeframe for the project relating to Biodiversity Net Gain creation and an audit process to secure success of the scheme over the full 30-year period.

The future landscaping plan would also look to secure the retention – and enhancement – of the established tree and hedgerow along the southern boundary of the site. This is wholly within the land controlled by the Applicant and the retention can therefore be secured accordingly.



## **Sustainable Building Methods**

Finally, comment was made during debate at the March Committee meeting in relation to the sustainability of the building methods, and 'green' aspects of the individual properties. As mentioned on the evening, imminent changes to Building Regulations will secure elements such as the provision of electric vehicle charging points for each dwelling. However, the Applicant has a reputation for delivering highly insulated timber frame dwellings that they would look to continue through this development, with air source heat pumps to provide occupants with all heating and hot water needs.

## **Conclusion**

We welcome the decision taken by the Council to remit the application to the Committee, and trust that the above information provides clarity on the material considerations relevant in the determination of the scheme. In light of the current position that Rutland County Council find themselves in regarding their policy framework and insufficient housing land supply, it is crucial that applications such as this – in sustainable locations with significant local benefits – are approved without delay in accordance with the NPPF.

I believe that when the application is considered on the basis of the true facts and the relevant policies (so that the flawed debate and decision-taking at the March Committee can be avoided) there is a compelling case for approving this proposal without further delay.

The new circumstances which have arisen since the March Committee – including in particular the Council's own increased housing requirement assessment published through its Issues & Options Paper – further strengthens the argument in favour of the development.

I trust that the above is clear and sufficiently covers all outstanding queries, and I would be grateful if you could give sufficient consideration in the preparation of your addendum report to the Committee. Please do not hesitate to let me know if there are any further questions arising prior to the meeting.

Kind regards,

**Chris Green** BSc (Hons) MA MRTPI AssocRICS

Associate Planner

for **Andrew Granger & Co.**

*This document has been electronically transmitted and therefore bears no signature*

Andrew Granger & Co

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