

Wednesday the 16th March 2022 at 7.00pm

Update Report for the Committee

The following notes and attached papers will be referred to at the meeting and will provide updated information to the Committee to reflect changes in circumstances and officer advice since the reports on the agenda were prepared

3. Requests for Deferral/Withdrawal

None

4. Schedule of Applications

(a) 21/02219/AS - Land opposite, 1-8 Elwick Road, Ashford, Kent –

Reserved matters application to consider details of access, layout, scale, landscaping and appearance pursuant to Condition 1 (Approval of Reserved Matters) of Planning Permission 15/01282/AS (Outline application for residential development of up to 200 units within Class C2 (residential institution) and Class C3 (dwellinghouses) uses and associated access arrangements - Phase 2), also including information pursuant to planning conditions 5 (Materials), 9 (External Storage), 10 (External Lighting), 11 (Proposed Access), 13 (Surface Water), 15 (Bicycle Storage), 19 (HS1 Approval Process), 20 (Ecological Mitigation Strategy), 21 (Surface Water Drainage), 22 (Sustainable Drainage Scheme - in part), 23 (Foul and Surface Water Disposal), 24 (Remediation Strategy), 30 (Noise Mitigation Scheme), 33 (Archaeological Watching Brief), 35 (Sustainable Movement And Electric Charging Points), 41 (Landscape Features), 42 (Landscape Management Plan), and 45 (Schedule of the Exact Mix and Proportions of Units in the Permitted Use Classes (Class C2, C3 and C3 restricted)).

Further written comments

Kent County Council Highways and Transportation (KH&T) comments received on 08 March 2022. The comments are in two parts:-

(i) KH&T confirm the quantum of proposed EV charging, both “Active” and “Passive”, and the charging units are all acceptable.

(ii) KH&T refer to the proposed landscaping in front of Block A being thought to be located within the adopted public highway where private hard landscaping cannot be provided.

In response, the applicant has provided an up to date Title Plan which appears to demonstrate that the full extent of the application site, including the frontage landscaping, relates to land within the applicant’s ownership.

The development is located directly adjacent to the Elwick Road shared space scheme, which includes semi-mature tree planting and high quality surface treatments. In my view, this means that in a worse-case scenario of the adopted public highway extending to the front building line of Block A, the development would

still be of high quality and be capable of responding appropriately to the public realm in this location.

As it has not been possible to reach agreement on this issue prior to the Planning Committee meeting, I therefore recommend that Recommendation A be amended to give delegated authority to further discuss and resolve this matter as per the revised wording below:-

A. Delegated authority to be given to the Development Management Manager or the Strategic Development and Delivery Manager to conclude the acceptability of any further minor changes to the design of the buildings and/or layout and/or landscaping that may prove necessary in order to resolve, to their satisfaction, any remaining issues requiring resolution with the Health & Safety Executive and with Kent Council Highways and Transportation,

(b) 21/00627/AS - Land rear of 7-14 Harmers Way, Egerton, Kent – Erection of 13 dwellings together with all necessary infrastructure.

Comments by the Ward Councillor – Cllr Ken Mulholland

Councillor Mulholland is unable to attend this meeting of the Planning Committee and has asked for his comments to be brought to the attention of the Committee. These comments are attached along with the further comments of the Parish Council.

In summary, Cllr Mulholland objects to the proposal because it is not within the Egerton Neighbourhood Plan which was only recently “made”. He considers that the officer’s report does not take account of this. Also the proposal is in conflict with Local Plan Policy HOU5 because of its cumulative impact when considered in context with other allocated sites. Finally, para. 14 of the NPPF makes it clear that where proposals are in conflict with an up-to-date Neighbourhood Plan the plan should prevail.

Cllr Mulholland’s comments are reproduced in full at Appendix 1.

Further comments from Egerton Parish Council

See attached at Appendix 2: The Parish object to the recommendation because the site was excluded from the Neighbourhood Plan. They set out the reasons for it being excluded. They state that where there is a conflict with the Neighbourhood Plan the conflict must be resolved in favour of the policy in the Neighbourhood Plan. If this is ignored by the Borough Council they state that there is a risk of Judicial Review.

Further neighbour comments

Four further responses have been received objecting to the proposed development on the following grounds:

- Not in the Egerton Neighbourhood plan nor in the Local Plan. The NPPF indicates that where something is in conflict with an up-to-date Neighbourhood Plan permission should not normally be granted.
- The only lawful decision is to not allow the application.

- Do not need more executive houses
- Infrastructure cannot cope
- Facilities in the village are inadequate to cater for more development
- A site of this size is not needed

Officer Comments:

The officers' report does not identify any conflict with the Neighbourhood Plan. The fact that a site is not included in the plan does not render it unacceptable per se. It falls to be considered under all the policies of the Development Plan, including Policy HOU5.

(c) 21/01292/AS – Wye College Land and Buildings, Olantigh Road, Wye Kent TN25 –Residential development of 40 dwellings with associated access road car park and open space (Re-submission of 19/1327 AS.)

No updates

(d) 21/01293/AS – Former A.D.A.S Offices, Olantigh Road, Wye,Ashford TN25 5EL - Demolition of offices and redevelopment with 20 dwellings and associated garages, parking and internal estate roads and open space

Neighbour comment:

One additional objection received specifically relating to the level of affordable housing proposed.

Officer Comment:

The officer's report deals with this issue and explains that no affordable housing is required due to the Vacant Building Credit arising from the floorspace of existing buildings on the site. This was accepted in the previous appeal and the same principles apply to the current application.

(e) 21/01440/AS - Meadowside Farm, Scots Lane, Brabourne, TN25 6LP – Demolition of existing agricultural barn and erection of a log cabin to be used as temporary residential accommodation

No updates

Comments from Cllr Mulholland – (Ward Member)

Re Planning Application - 21/00627 – North Field, Egerton

I am very surprised that the Planning Officer despite several written exchanges between myself and EPC is still recommending approval

KEY FACTS

- This site is not in the Ashford 2030 Plan, nor was it put forward in the call for sites for that plan.
- It was put forward to the Egerton Neighbourhood Plan Group on two occasions and has twice been rejected as it did not meet the criteria which had been agreed between the Neighbourhood Plan Working Group, the Borough Council and the Independent Examiner.
- The housing needs of the Parish through to 2040 have been identified by a Housing Needs Survey and will be met by deliverable developments on other sites in the village for which applications are in hand and which Planning Officers have been aware of for several years including the New Road site for which consent was recently given. As a consequence, Egerton will be taking 35 new dwellings which will be the largest single increase the village has ever seen.
- Egerton Parish Council and its working groups have been impressively resourceful in finding a solution to access to the Orchard Nurseries site which will provide for the development of houses for older residents to downsize, and thereby enabling them to remain in the village and which will in turn release family homes for others in the village.
- Egerton Parish Council initially made their objections to development of North Field with a letter sent to the then Head of Planning in August 2020. Why has it taken so long?
- The Egerton Neighbourhood Plan is now a “made” plan and carries full weight as a planning document. Egerton is one of only 5 parishes out of 39 in the borough to have a “made” Neighbourhood Plan. It has taken over 4 years of volunteer effort working closely with planning consultants, Ashford Planning Department and other stakeholders.
- The Plan was overwhelmingly supported by parishioners of Egerton in the recent referendum with a high turnout of 50% and a majority in support of 92%. It is inconceivable that the repeated, consistent, clearly expressed wishes of Egerton Parish Council, its Neighbourhood Plan Steering Group and by virtue of the referendum result the wishes of the residents of Egerton Parish should be disregarded in recommending approval for this application so casually

- More importantly , given the foregoing it is of further great concern that support for this application potentially undermines Neighbourhood Planning as a whole, at a time when there is already enormous concern amongst the public about development generally and the lack of voice that people feel they have in the planning process. I fear that a consequence will be that there will be more costly, time consuming and disruptive challenges to planning departments through the use of judicial reviews and other legal mechanisms

THE SITE

ENP9 North Field – The site is sustainable by virtue of its location in relation to village amenities; but the open market housing on the site is in excess of HNS (Housing Needs Survey) requirement and the affordable housing will not meet local needs as identified by the HNS. The site is classified as very good quality agricultural land, with some protection from development in NPPF guidelines; but its small size and slope would limit large scale agricultural use. The density and number of new dwellings, when added to the 15 on the New Road site and the possible 8 on Orchard Nurseries, has the potential to make a significant change to the individual landscape character and environment of Egerton village, to impact adversely on key views to and from the village and to add considerably to light, noise and traffic pollution.

On balance, it was decided that, in spite of the site's proximity to local amenities, the following factors have led to a decision not to include it in the Neighbourhood Plan:

- **the absence of an open market housing need from ABC above the provision on the New Road site;**
 - **the provision of older people's housing on the gifted Orchard Nurseries site;**
 - **the lack of local needs affordable housing;**
 - **the potential adverse impact on neighbouring properties and the individual landscape character of the parish;**
 - **the loss of a significant green gap and buffer for the main settlement; and the disproportionate clustering of new development (North Field, New Road, Orchard Nurseries) with the resultant impact on the environment.**
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- **Egerton has no shops, and services to access other than a pub and garage. There is a primary school but these new homes are unlikely to house young families. As a whole it is an unsustainable location with bus services likely to be lost. Commuters have tortuous lanes to negotiate to reach any railway station.**
 - **The topography of the area does not lend itself towards residents with disabilities and the "Dark skies" policy makes it unsafe for women and children at night**

HOU 5

I recognise that the site should be considered under Policy HOU 5. But for all the reasons given above, and in particular because of its consideration and eventual exclusion from the Egerton Neighbourhood Plan, it should be rejected and development on the North Field site not be permitted, particularly as, in addition, the Egerton Neighbourhood Plan has in it policies which will immediately deliver in excess of a further 20 dwellings to Ashford's housing numbers.

Please take account of the discussion about **policy HOU 5** in the Ashford 2030 Plan. Para 6.57, which states **"The cumulative effect of windfall schemes... will have to be considered."** This is expanded in para. 6.59 where it states that any implementation of the policy has to take into account "the impacts from any allocated sites in the area and any other developments with extant planning permission." The Egerton Neighbourhood Plan analysis does this; the additional dwellings proposed for North Field, when added to the 15 on the New Road site and the 8 (now probably 9) on Orchard Nurseries has the potential to make a significant change to the individual landscape character and environment of Egerton village, which makes the proposed development quite unacceptable.

More importantly, the recommendation has to be considered against the Government's National Planning Policy Framework, which provides explicit direction. If the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites, a neighbourhood plan may benefit from the protections set out in paragraph 14 of the National Planning Policy Framework. Paragraph 14 states that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits provided the neighbourhood plan:

- became part of the development plan 2 years or less before the date on which the decision is made;
- contains policies and allocations to meet its identified housing requirement; and
- the local planning authority has at least a 3 year supply of deliverable housing sites and housing delivery was at least 45% of that required over the previous 3 years.

Without doubt the Egerton Neighbourhood Plan meets the criteria above.

Within the principles of the NPPF, Egerton's Neighbourhood Plan has allocated sufficient sites and has produced housing policies, demonstrating that the Neighbourhood Plan is planning positively for new homes, and providing greater certainty for developers, infrastructure providers and the community. ABC's housing delivery target has been exceeded in the past 5 years at 118%, with a land supply of 4.54 years. In turn the Egerton Neighbourhood Plan contributes to ABC's housing land supply, ensuring that the right homes are delivered in the right place as

Government policy expects Egerton to do. (Ref NPPF Paragraph: 096 Reference ID: 41-096-20190509)

The NPPF also states that where a planning application conflicts with an up-to-date neighbourhood plan (as part of the development plan), permission should not usually be granted. (ref NPPF Paragraph: 083 Reference ID: 41-083-20190509). So ABC would clearly be defying the NPPF if a stance against the Neighbourhood Plan were taken to approve the North Field application

IN CONCLUSION

Whilst appreciating that NHP's are subordinate to they should be complementary to the Ashford Local Plan , Should the ENP not long approved by the entire Council, be seen to be disregarded by the planners so soon after its adoption, this is likely to damage the Council's reputation. By indiscriminately applying policy HOU 5 without any thought to the consequences, and permitting apparent unrestricted housing development in a small outlying village which the development plan, the Neighbourhood Plan, and our new Mapping Commission is supposed to protect, we would be completely undermining confidence in the planning system. A community that has so recently overwhelmingly voted in favour of their Neighbourhood Plan which rejected this site is likely to be quite vociferous in its condemnation of a decision to allow unwanted building on it.

I support refusal on this occasion

Ken Mulholland
Ward Member

Appendix 2

Comments of Egerton Parish Council

Online Comments Form

Application Details

App No: 21/00627/AS

Location: Land rear of 7 to 14, Harmers Way, Egerton, Kent

Proposal: Erection of 13 dwellings together with all necessary infrastructure

Person and Comment Details

Name: Clerk EGERTON Egerton COUNCIL

Address: The Computer Centre, Village Hall Elm Close Egerton Ashford, Kent KENT TN27 9EP

Action: Objecting

Created On: 13/03/2022 19:04:04

Comments

Egerton Parish Council objects strongly to this application.

Ashford Borough's full Council adopted the Egerton Neighbourhood Plan on 3 March 2022. This means it is part of Ashford's Local Development Plan, and the Neighbourhood Plan's policies carry the same weight in decision-making.

This site was excluded as a development policy in Egerton's Neighbourhood Plan because:

- Its proposed open market housing exceeds Egerton's Housing Needs Survey requirement. Site s.30 in Ashford's Local Plan will already provide 9 large, detached homes for sale and 6 affordable homes - not solely for local people – to meet Ashford's general requirements.
- Egerton's outstanding needs are for affordable, rented homes for local people and for local older people to down-size. But this site was never offered for older people's housing, nor for local people to rent, despite advice about these requisites. So not only does it fail to meet essential needs, it presents unwarranted large houses.
- The Orchard Nurseries site in the Neighbourhood Plan will cater for local older people to downsize into suitable homes. Access to it is now tenable. Downsizing will release about 8 large homes, and frequent barn conversions will deliver more for the open market. Another site is available for about 8 affordable homes for locals to rent from a Housing Association. These two sites will meet Egerton's and Ashford's future needs.
- This application is for greenfield development. A "Very Good" agricultural classification.
- Development would destroy a significant green gap and buffer for the village in the sensitive environment of the greensand ridge with its natural springs and wildlife habitat for crested newts.
- Development would impact adversely on key views to and from the Conservation Area, Grade I Church and the Low and High Weald and adversely affect the settings of Grade II listed buildings close by at Barlings and Stone Hill.
- The proposed housing density would radically alter the landscape character, including the adjacent 108-mile Greensand Way, acclaimed as the best long-distance walk in South-East England and which has the

prospect of the status as an Area of Outstanding Natural beauty.

- This proposal, in addition to nearby site s.30 and Orchard Nurseries, would generate a disproportionate cluster of over-sized new houses, disrupting the settlement pattern, causing detriment to environmental quality and increasing traffic congestion.
- The density and scale of most of the proposal would be over-bearing, impacting on existing properties, especially as the field undulates and neighbouring bungalows and houses on lower ground would be severely over-shadowed by over-bearing houses above them.
- The Independent Examiner confirmed the Neighbourhood Plan's policies were sustainable and sound.
- Government policy is that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like. If this application were to be allowed it makes nonsense of Government policy.

Should there be a conflict between a policy in a neighbourhood plan and a policy in a local plan or spatial development strategy, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan. If this is ignored by the Borough Council, it risks Judicial review.

The up to date Neighbourhood Plan policies should be followed and this excessive application should be refused.

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