



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Planning Committee

5 December 2024



Additional Information Report

This report sets out additional information in relation to planning applications for consideration at the Planning Committee on 5 December 2024 that was received after the Agenda was published.

Agenda Item 8

S23/0055

Proposal: Outline planning application for the erection of up to 1,350 residential units (Use Class C2 and C3); a two-form entry primary school (Use Class F1); local centre (Use Classes E, F2 and public house, wine bar or drinking establishment; drinking establishment with expanded food provision; and hot food takeaway for the sale of hot food where consumption is mostly off premises); road between Ryhall Road and Little Casterton Road; removal of existing noise bund; associated green infrastructure including provision of public open space, landscaping, formal and informal play areas; utilities (including drainage); and associated access, including potential realignment of part of Ryhall Road, ancillary works and structures (All matters reserved)

Site Address: Land to the north of Stamford

Summary of Information Received:

- Representation from Ruchard Buxton Solicitors on behalf of Stand Up for Stamford campaign group.

The points raised can be summarised as follows and are appended in full at Appendix A:

1. The application conflicts with Policy SP4 of the South Kesteven Local Plan and Policy 2 of the Stamford Neighbourhood Plan due to its lack of demonstrated local support and the lack of demonstrated need for the additional unallocated area.
2. The Environmental Statement lacks key information that would allow assessment of the noise impact of the removal of the acoustic bund on neighbouring properties. The applicant is required by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 to provide such information.
3. The existing information provided by the Applicant on proposed noise mitigation to account for the removal of the bund is inadequate and lacks necessary detail to demonstrate effectiveness, allowing an unacceptable risk of adverse amenity impact on existing and future residents in conflict with Local Plan Policies EN4 and DE1.

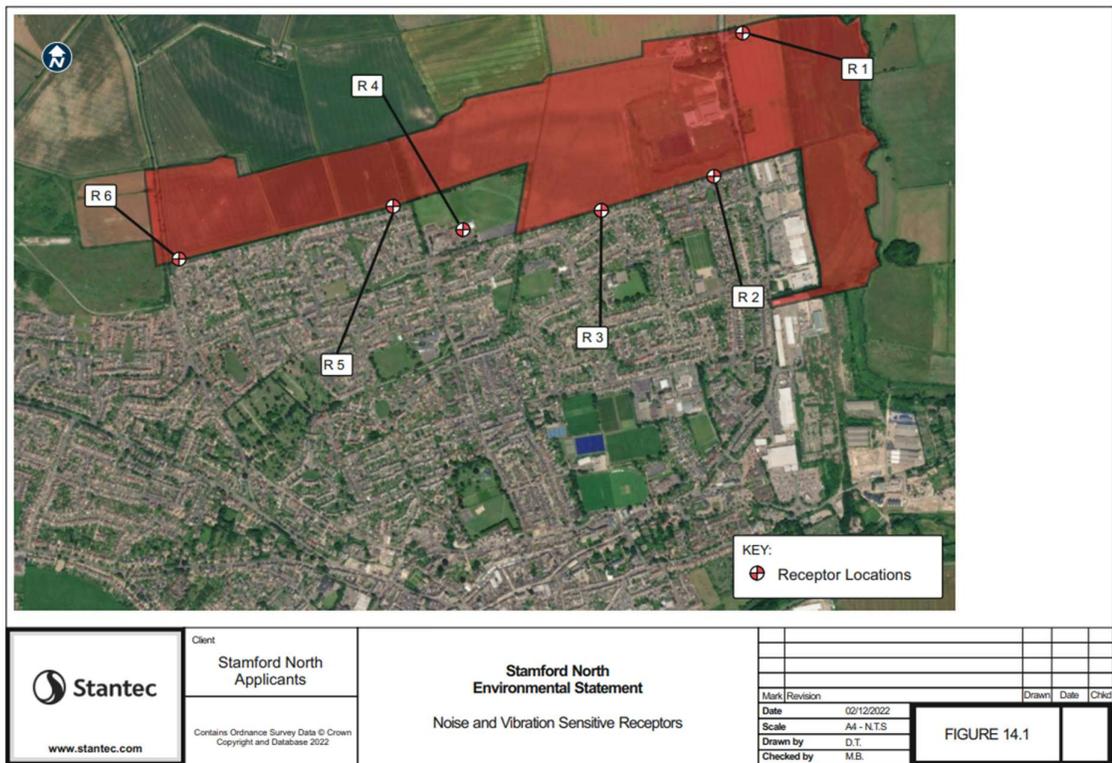
4. There is an unacceptable risk of replacement pitches of adequate size, quality and location not being provided, in conflict with Paragraph 103 of the National Planning Policy Framework and Local Plan Policy OS1.
5. The applicant's assessment of the required Open Space provisions has not been carried out in accordance with local policy, and they have therefore not demonstrated that it will be possible to comply with the policy.
6. The application should be refused or at minimum deferred and an alternative layout considered.

Officer Evaluation

1. Conflict with Local Plan Policy SP4 and Neighbourhood Plan Policy 2 due to the lack of local support and demonstrable need for the inclusion of the unallocated land.
 - 1.1. The officer assessment of the principle of development on the site is covered in Section 7.6 of the Committee Report. The analysis of the principle of development on the land falling outside of the Local Plan allocation is clearly set out in Paragraph 7.6.4 and 7.6.5; this outlines the Case Officer assessment that the primary policy for assessing the acceptability of development on this parcel of the site is Policy OS1 (Open Space). Paragraph 7.6.5 goes on to state that when assessing the principle of development of this land against the spatial policies of the adopted Local Plan, the additional land would not result in an extension of the land beyond the committed confines of Stamford, and therefore would accord with the overall principles of the spatial strategy and consequently would accord with Policy SP2 and the adopted Development Plan, when taken as a whole.
 - 1.2. Notwithstanding the above, it is Officer's assessment that if it were deemed necessary to assess the application against the additional spatial policies contained within the adopted Local Plan then the relevant policy would be Policy SP3 (Infill Development) rather than Policy SP4 (Edge of Settlement) as alleged in the solicitor's letter.
 - 1.3. Policy SP3 (Infill Development) states that infill development, which is in accordance with all other relevant policies will be supported, provided that:
 - *It is within a substantially built-up frontage or redevelopment opportunity (previously development land)*
 - *It is within the main built-up part of the settlement.*
 - *It does not cause unacceptable impact on the occupiers amenity of adjacent properties*
 - *It does not extend the pattern of development beyond the existing built form; and*
 - *It is in keeping with the character of the area and is sensitive to the setting of adjacent properties.*
 - 1.4. In this regard, the additional land outside of the allocation boundary is bound on all sides by the allocation boundary and existing residential development, and therefore, the development of this land is wrapped around on all sites by committed development and existing residential properties.
 - 1.5. In light of this, it is Officer's assessment that the principle of development on this land would appropriately be considered as infill development in accordance with the principles of Policy SP3.
 - 1.6. Policy 2 (Additional Residential Development) of the made Stamford Neighbourhood Plan also supports the principle of development for new residential development within the existing built form of Stamford, subject to material design considerations. As stated within the Committee Report, it is Officers' assessment that these detailed design principles would be appropriately assessed as part of subsequent reserved matters application.
 - 1.7. Therefore, it is Officers' assessment that the proposed development, as a matter of principle, would be in accordance with the overall spatial strategy for the District, as set out in the adopted Local Plan, the Stamford Neighbourhood Plan and Section 5 and 11 of the Framework.

2. Environmental Statement lacks adequate information that would allow assessment of the noise impact of the removal of the acoustic bund for neighbouring properties.

2.1. The Case Officer assessment of the adequacy of the noise assessment completed as part of the application is set out in Paragraphs 7.8.22 – 7.8.25 of the Committee Report. In particular, Paragraph 7.8.24 of the Report outlines details of the noise survey that was completed, including confirmation that an unattended survey was completed over a 5-day period and with noise monitoring equipment placed in 5 locations deemed to be representative of the noise sources and noise sensitive receptors. Figure 14.1 of the Environmental Statement (below) shows the locations of these sensitive receptors, and the Environmental Statement confirms that survey data was collected from the southern boundary of the site, adjacent to the rear boundary of properties fronting onto Masterton Road (indicated by R2 on the below plan).



2.2. A summary of the results of the unattended sound survey are contained at Table 14.15 of the Environmental Statement, and the full results provided in the form of time-history graphs, are included at Appendix 14.1 of the Environmental Statement. All of this information was published as part of the original submission of the application in January 2023 and, therefore, has been available for public scrutiny.

2.3. Consequently, it is Officer's assessment that the completed assessment is consistent with the requirements of the Environmental Impact Assessment Scoping Opinion and therefore, the application is in accordance with the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

2.4. In the context of the above, it is Officer's assessment that the baseline efficacy of the bund has been established by the completed noise survey, and the Council's Environmental Protection Team have reviewed the results of the survey and the associated modelling, and have confirmed that they are satisfied that appropriate alternative mitigation can be achieved that would ensure that there are no unacceptable adverse noise impacts on the existing residential properties.

2.5. Condition 10 of the proposed schedule of conditions sets out the requirement for a detailed Noise Impact Assessment to be submitted as part of each reserved matters application, and these assessments will need to specify the detailed proposals for noise mitigation within that

parcel of development. Condition 12 requires the submission of a phasing plan for the removal of the bund and the completion of the replacement mitigation, including any measures for temporary mitigation that may be required to ensure that there are no unacceptable adverse impacts following the removal of the bund.

- 2.6. Whilst the submitted letter suggests that this approach is not legally or practically sufficient, it is a well established principle that planning applications should not be refused where matters can be appropriately addressed through the imposition of planning conditions. In this respect, it is Officer's assessment that the proposed conditions would meet the relevant legal tests and would ensure that there are no unacceptable adverse impacts associated with the removal of the bund. Therefore, refusal of the application as suggested by the representation would be unjustified.
3. The existing information provided on proposed noise mitigation is inadequate and lacks necessary detail to demonstrate effectiveness.
 - 3.1. As stated above, it is Officers assessment that there is sufficient information to determine that the proposed development can, as a matter of principle, provide suitable alternative noise mitigation which ensures that the development does not have any unacceptable adverse impacts. The detailed scheme of mitigation can be appropriately secured by planning conditions.
 - 3.2. Condition 10 of the proposed schedule of conditions sets out the requirement for a detailed Noise Impact Assessment to be submitted as part of each reserved matters application, and these assessments will need to specify the detailed proposals for noise mitigation within that parcel of development. Condition 12 requires the submission of a phasing plan for the removal of the bund and the completion of the replacement mitigation, including any measures for temporary mitigation that may be required, to ensure that there are no unacceptable adverse impacts following the removal of the bund.
 - 3.3. Furthermore, Condition 28 requires validation of the noise mitigation to be completed, which will ensure that the effectiveness of the replacement mitigation has been appropriately completed and will be retained for the lifetime of the development.
 - 3.4. Whilst the submitted letter suggests that this approach is not legally or practically sufficient, as already noted planning applications should not be refused where matters can be appropriately addressed through the imposition of planning conditions. In this respect, it is Officer's assessment that the proposed conditions would meet the relevant legal tests and would ensure that there are no unacceptable adverse impacts associated with the removal of the bund. Therefore, refusal of the application as suggested by the representation would be unjustified.
 4. There is an unacceptable risk of replacement pitches of adequate size, quality and location not being provided.
 - 4.1. Section 7.7 of the Committee Report addresses the impact of the development on open space, including responding to the objection raised by Sport England, and the statutory referral requirements.
 - 4.2. The letter received from Richard Buxton Solicitors does not raise any additional evidence or matters beyond those considered within the Committee Report in respect of replacement pitch requirements.
 - 4.3. As such, it is Officer's assessment that these matters are appropriately detailed and assessed within the Committee Report and no evidence has been provided to justify reaching an alternative conclusion.
 5. Open space provision is not in accordance with the policy
 - 5.1. Paragraph 25 and 26 of the letter alleges that the application conflicts with Policy OS1 of the adopted Local Plan because it fails to address an existing shortfall in open space as well as making provision for prospective new residents.

- 5.2. Policy OS1 (Open Space) states:
- “To ensure that new housing developments provide sufficient new (or improved) open space to meet the needs of the development, the above standards will be applied to all development proposals that are capable of providing 10 or more dwellings. Development proposals will be assessed against current open space provision. In areas that do not currently meet the standards for open space, the development proposal will be required to make appropriate provision, based upon the standards above”. [Emphasis added]*
- 5.3. It is Officer’s assessment that the above wording requires development proposals to provide sufficient new open space to meet the needs of the development based on the specified standards. It does not require applicants to address any existing shortfalls in open space provision, rather the wording requires an application to be assessed against the current availability of open space. In circumstances where there is an existing over provision, such that there is capacity to accommodate the development, then a development proposal may be approved without requiring contributions for additional open space.
- 5.4. In respect of addressing existing shortfalls in provision, Section 122 of the Community Infrastructure Levy Regulations (CIL Regulations) states that planning obligations must be:
- (a) Necessary to make the development acceptable in planning terms;*
- (b) Directly related to the development; and*
- (c) Fairly and reasonably related in scale and kind to the development.*
- 5.5. As such, development proposals can only be required to provide contributions to the extent that they are reasonably necessary to mitigate the impacts of the development directly and cannot be used to address existing shortfalls. Therefore, the current application is required to provide sufficient open space required to meet the standards of Policy OS1 as a proportion of the development, and not to address any existing shortfalls within the immediate area. To require an applicant to address an existing issue in the manner suggested in the RBS letter would be contrary to Section 11 of the CIL Regulations and would be unlawful.
6. The application should be refused or at minimum deferred to allow for an alternative layout to be considered
- 6.1. Chapter 4 of the Environmental Statement sets out the appropriate consideration of alternatives as required by the Environmental Impact Assessment Regulations 2017.
- 6.2. This Chapter acknowledges that the development proposal is an allocated site, and therefore, it is not appropriate to consider alternative sites. Nonetheless, the design of the proposal, as indicated on the Parameters Plan, has evolved during the process, to allow for appropriate consideration of the environmental constraints, and the requirements of stakeholders.
- 6.3. In this regard, Officers are satisfied that the Applicant has undertaken a proportionate consideration of alternatives, which has resulted in the submission of the proposed scheme.
- 6.4. Notwithstanding the above, it is necessary for the Council (as Local Planning Authority) to assess whether the submitted proposal is acceptable having regard to the development plan and material considerations. The fact that there could be alternative acceptable options for the development proposed, does not justify refusal of planning permission.
- 6.5. It is Officer’s assessment that the proposed development is acceptable and accords with the adopted development plan. Therefore, it is not necessary for the LPA to consider alternative options for the proposed development.

Conclusion

Taking all of the above into account, Officers remain of the view that the proposal would be in compliance with the adopted Development Plan, when taken as a whole, and that material considerations also weigh in favour of the grant of planning permission.

Therefore, the recommendation remains as set out within the main Committee Report.

The objection from Richard Buxton Solicitors makes reference to the risk of legal challenge. However, the points raised have been carefully reviewed and none are considered to amount to legal error.