

**19/01193/OUT: Field OS 3254 Blacksmith End Stathern**

**Residential development for 9 houses**

### 1. Summary:

The application site is around 0.6 hectares of grazing land on the edge of the village. A public footpath runs northwards diagonally across the site to join a network of other paths in the locality.

The proposal is an outline application for 9 dwellings with access only for approval at this stage. If approved, a reserved matters application would be required at a later stage for the approval of scale, layout, appearance and landscaping details. Foul drainage is proposed via connection to mains drainage and surface water to a sustainable drainage system, including an above ground detention basin. A small area of public open space is included, with the line of the public right of way diverted to accommodate the development. Vehicular access is from Blacksmith End and it is proposed that the access road serving the development remains private and not adopted by the Local Highway Authority. The housing is indicated as a mix of 3 x 2 bed, 3 x 3 bed and 3 x 4+ bed market housing.

### 2: Recommendations:

**That planning permission is APPROVED subject to conditions.**

### 3: Reasons for Recommendation:

In the opinion of the Local Planning Authority the proposal represents a sustainable and proportionate addition to Stathern and would provide a suitable mix of dwellings that are well related to the existing built form of the village. Subject to detail provided in a future reserved matters application, there are no in principle objections that would justify a refusal of the application. Access from Blacksmith End can be provided in accordance with Local Highway Authority standing advice and subject to conditions there would be no significant adverse impact on highway safety. The

Local Highway Authority has no objection in principle. The application therefore accords with Policy SS2 of the adopted Melton Local Plan and there are insufficient grounds to indicate this should be departed from.

#### 4: Key factors:

##### **Reason for Committee Determination**

The application is required to be presented to the Committee due to receiving more than 10 letters of objection which are contrary to the recommendation.

##### **Relevant Policies**

**The Melton Local Plan 2011-2036 was adopted on 10<sup>th</sup> October 2018 and is the Development Plan for the area.**

- **No inconsistency with the NPPF has been identified that would render Local Plan policies ‘out of date’.**

Please see Appendix D for a list of all applicable policies

##### **Main Issues**

The main issues for this application are considered to be:

- Principle of development/policy compliance
- Impact upon the character of the area
- Impact on ecology
- Impact upon residential amenities
- Impact upon highways and parking
- Impact on heritage assets
- Flood risk

#### 5: Report Detail:

##### **5.1 Position under the Development Plan policies**

The site is adjacent to the settlement of Stathern and Policies SS1-SS2 apply. These two policies reflect the presumption in favour of sustainable development within the National Planning Policy Framework (NPPF) and sets out the strategy of delivering housing across Melton borough through identifying the most suitable locations for new housing within a settlement hierarchy, devised from sustainable credentials.

Stathern is identified as a Service Centre within the Local Plan, which is a sustainable location for housing and it has an allocation of 75 dwellings over two sites (STAT1 and STAT2 under Policy C1(A) and a ‘reserve site’ ‘STAT3’ under Policy C1(B) with an estimated capacity of 45 dwellings). This site falls within the

STAT3 site.

The Local Plan has progressed through its Examination where the village categorisation was scrutinised at length and the Inspector agreed with the now adopted Local Plan village categorisation. As such, the policies in the Local Plan which identify the category of each village has passed a robust examination and Stathern, as part of this process, has been identified as a Service Centre and a sustainable location for new housing. Although a figure of 75 new dwellings is given in Policy C1(A), this is not a maximum (as indeed are none of the targets stated in the Local Plan, including the provision of 6125 houses over the plan period).

An application submitted in 2018 for 45 dwellings on the reserve site was not considered acceptable as the Local Plan is at a relatively early stage of its life and there was a good chance that both STAT1 and STAT2 would be developed (STAT 1 is under construction and STAT2 is the subject of an application). The application was withdrawn. The current application has been submitted as a 'windfall' development of 9 dwellings and this is discussed further in section 5.2 of this report.

**Policy SS3 is not relevant to this application** as it relates to rural settlements, identified in the Local Plan rather than Service Centres or Rural Hubs. Stathern is a Service Centre. There is no requirement for a local need in Stathern to be demonstrated in respect of new housing proposals under Policy SS2.

## **5.2 Principle of Development**

Policy SS2 states that Service Centres and Rural Hubs will accommodate approximately 35% of the Borough's residual housing requirement on a proportionate basis, delivered by planning positively for the development of sites allocated **within and adjoining** the Service Centres and Rural Hubs by 2036, and by encouraging small scale residential 'windfall' development, where it would represent sustainable development under Policy SS1. It is explained that in Service Centre windfall development would be appropriate for "up to about 10 dwellings".

**The site adjoins the built up area of Stathern and is for 9 dwellings. It is therefore in compliance with the approach of SS2 in principle, though attention is required to be given to its site-specific implications** under other policies (EN6 Settlement Character, D1 Design etc).

Windfall sites are an important element of housing supply and calculations on the likely amount of windfall housing as a realistic proportion of overall delivery is estimated through the Local Plan process but, again, there is no ceiling for windfall housing provision.

The NPPF does not seek to place an arbitrary limit on development quantities and each application must be considered on its own merits. Within the glossary of the NPPF 'windfall' sites are defined as '*Sites not specifically identified in the development plan*'. As this site is part of a wider area identified as a reserve site in the Local Plan, it has been suggested that it cannot also be a windfall site. However, whilst it cannot be both and by the same token it cannot be neither. It would undermine the presumption in favour of sustainable development set out in the

NPPF and the objective of Policy SS2 if the site were to be excluded despite its acceptability as a reserve site.

Other windfall sites in Stathern may come forwards in the future and within the plan period. If these proposals represented sustainable development they could potentially be approved unless it was considered that the adverse impacts of approval would be contrary to the Local Plan and/or give rise to adverse in impact. Such a rigid application of the definition of windfall used to prevent development is not reflected in the actual policy content of the Local Plan or the NPPF and is not considered likely to be supported at appeal, despite the definition in the NPPF glossary.

An approval does not set a precedent for approval of further small developments within STAT3 as each application would be considered on its merits and in terms of the overall proportionality of development within Stathern and their respective impact(s).

The scheme provides a mix of dwellings as required by Policy C2 of the Local Plan (though C2 is s not strictly applicable due to the scale of the development under 10).

As an application of less than 10 dwellings, no financial contributions through a Section 106 Agreement are required and as such the lack of specific infrastructure contributions such as future school capacity is expected nor therefore can it be a valid reason for refusal. However, the allocated sites at Stathern will need to provide contributions towards infrastructure, such as education, healthcare, affordable housing etc. in accordance with the requirements of the relevant infrastructure providers due to their larger scale.

**Therefore, the principle of development is considered acceptable.**

### **5.3 Impact upon the character of the area (Policies D1 and EN1)**

**Policy D1 of the Local Plan** states that all new developments should be of high-quality design and EN6 addresses settlement character in terms of valuable opens spaces, the built form and the character of Conservation Areas etc... Development proposals will be assessed against these policies which includes siting and layout and a design to reflect the wider context of the local area and respect the local vernacular without stifling innovative design.

The land is currently used for grazing and there is a public footpath across the site. However, it is not public open space nor is it identified as important green space. Subject to making suitable provision for the continued use and enjoyment of the public footpaths, there are no 'in principle' issues resulting from its loss as agricultural land.

The layout provided at this outline stage is indicative and the appearance of the buildings and final layout would be assessed as part of any future reserved matters application. The density is low and the indicative layout shows ample opportunity for the retention of the hedges and trees (except in the location of the vehicular access),

together with enhancement of planting, open areas and the provision of a water attenuation area. Permission would be subject to a landscaping scheme to provide visual enhancement together with biodiversity gains. The public footpath would probably need to be diverted but there is scope to provide a good quality replacement route from Blacksmith End and link to the current footpath network nearby.

**Policy EN6** of the Melton Local Plan states that development proposals will be supported where they do not harm open areas which contribute positively to the individual character of a settlement or form a key entrance and/or gateway to a settlement. The site is part of open grazing land and as such part of this would be developed. It is acknowledged that this would alter its character. However, it is a significantly smaller proposal than the 2018 application (withdrawn) for 45 dwellings on what is identified as a reserve site for housing in the Local Plan. Currently the existing modern dwellings facing onto the site on this side of Blacksmith End have an open outlook but do not present a remarkable or particularly sensitive character to the village approach. A well designed development of nine dwellings is not considered to harm the character of the village or adversely affect gateway views or long distance views.

Whilst the cumulative impact of recent and proposed development in Stathern overall would be noticeable, it is not considered to be so adverse an impact as to result in harm to the area or the objectives of the Local Plan in terms of its provision via the settlement hierarchy owing to its limited scale (9).

**The proposals are considered to acceptable on the grounds of visual amenity and comply with the above policies.**

#### **5.4 Impact upon ecology (Policy EN2)**

The ecological value of the grazing land is limited, as confirmed by the reports submitted with the application and the response of the County Ecologist. Whilst the hedgerows in particular provide good foraging and nesting opportunities, these are retained in the most part, with removal only necessary in the location of the access road. The low density of the development provides good opportunities for additional landscaping, tree planting, a surface water attenuation pond and opportunities for significant biodiversity enhancements in accordance with the requirements of the NPPF.

**The proposals are considered to comply with Policy EN2.**

#### **5.5 Impact on residential amenity**

Policy D1 of the Local Plan states that the amenity of neighbours and neighbouring properties should not be compromised. The layout of the proposed dwellings is indicative. However, due to the distances involved and orientation of the nearby dwellings, no close or direct views of private areas would result and there would be no unacceptable loss of amenity as a result of the development which would warrant

refusal of the application. Loss of a view is not a planning consideration.

**The proposal would not have an unduly adverse impact on the amenity of neighbouring land uses and as such the proposal would comply with Policy D1 of the Local Plan.**

### **5.6 Highway Safety**

Policy D1 states that development proposals should include appropriate, safe connection to the existing highway network and should make adequate provision for car parking. Policy IN2 requires that development does not unacceptably impact on the safety and movement of traffic on the highway network and provides appropriate and effective parking provision and servicing arrangements.

The site is accessed from Blacksmith End which is a narrow unclassified road. Whilst a development of nine dwellings would increase vehicle movements to some degree, this is considered by the Local Highway Authority not to be significant. Although a Highways Statement has been provided with this application the LHA have confirmed trip generation is not required for this scale of development and so no specific comments relating to this information has been provided.

Several of the representations received have cited a refusal of permission for the change of use of a dwelling on Blacksmith End to a children's day nursery on highway safety grounds. The current application is not directly comparable, being a development of nine dwellings rather than a commercial use and which can provide ample off street parking within the site. Each application must be considered on its own merits. There are no sustainable grounds for refusal of this application on highway safety grounds, subject to the receipt of sufficient information regarding the detailed design of the access onto Blacksmith End. This is proposed as a condition.

**As such, subject to conditions the proposal would be acceptable in highway safety terms and would comply with the above policies.**

### **5.7 Heritage Assets**

The site has no close relationship or direct inter-visibility with the conservation area or listed buildings. The land does have some archaeological interest and the County Archaeologist is satisfied that further archaeological investigation can be addressed through the imposition of conditions.

**The proposal would comply with Policy EV13.**

### **5.8 Flood Risk (Policies EN 11 and 12)**

The site is not within a high or medium risk flood zone as identified by the Environment Agency. Surface water disposal is proposed via a sustainable drainage system (SUDS) which would attenuate surface water runoff from the development to green field rates allowing for climate change. The Lead Local Flood Authority has no objections to the proposal subject to the imposition of conditions relating to details of the scheme. Whilst evidence of localised flooding nearby is acknowledged there is no reason to suppose that the development would exacerbate this subject to the

robust provision of surface water drainage on the site.

**The proposal would comply with Policy EN11 and EN12.**

### **Consultation & Feedback**

A site notice was posted and neighbouring properties consulted. As a result 35 representations have been received as summarised in this report.

### **Financial Implications:**

There are no financial implications identified.

### **Background Papers:**

A previous application for 45 houses reference 18/01533/OUT was withdrawn.

### **Appendices:**

- A: Consultation responses
- B: Representations received
- C: Recommended conditions
- D: Applicable Development Plan Policies

### **Report Timeline:**

<b>Assistant Director Approval</b>	
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## Appendix A : Consultation replies summary

### **Parish Council:** Objection (summary) -

The site should not be considered a 'windfall' as this is in direct conflict with the NPPF which states that "*windfall sites are sites not specifically identified in the development plan*". The site is part of STAT3, an identified reserve site in the adopted Melton Local Plan. With allocations STAT 1 and STAT 2 there is no proven local need for any more housing. Policy SS3 of the Local Plan states that permission will be granted where the development provides housing which meets a proven local need as identified by substantive evidence, for example within a Neighbourhood Plan or appropriate community-led strategy, or a housing assessment or other evidence provided by the applicant. There is no substantive evidence.

The proposal would also require the removal of established ancient hedgerow which is an important site for biodiversity and is used as a predation and hunting ground for owls and other birds of prey.

### **Lead Local Flood Authority:** No objections subject to conditions -

The site is within flood zone 1, being at low risk of fluvial flooding. The proposals are acceptable subject to conditions relating to submission of a surface water drainage scheme, surface water management, maintenance and infiltration testing.

### **LCC Archaeology:** No objections subject to conditions -

Whilst the proposals are smaller than previously, the advice given in relation to the earlier application stands. The desk based assessment and geophysical survey indicated that there is potential for archaeological remains to be encountered. It is recommended that the current application is approved subject to conditions for archaeological mitigation, including necessary intrusive and non-intrusive investigation and recording (earthwork survey of the ridge and furrow and trial trenching). If planning permission is granted the applicant must obtain a suitable written scheme of investigation (WSI) prior to the start of development.

### **LCC Highways:** Comments -

The site will be accessed from Blacksmith End which is an unclassified road with a 30mph / national speed limit change fronting the site.

There have been no Personal Injury Collisions recorded within 500m of the site within the last 5 years. Trip generation assessment is not required for the quantum of this development. Parking should be provided in accordance with the Design Guide. Footpath G19 runs through the centre of the site and G24 runs adjacent to the proposed development. A separate application for diversion is required under the Town and Country Planning Act if these are impracticable to retain on existing lines.

A request was also made for a scaled drawing detailing the proposed access arrangements in addition to the site layout plan, including the achievable visibility splays. However, following further discussions the Local Highway Authority has confirmed that this information could be a condition of any approval granted.

### **Ecologist:** Comments -

The survey identifies that the site comprises species-poor grassland. Hedgerows



surrounding the site provide some habitat connectivity in the area. No evidence of protected species was recorded on site, but a number of ponds were identified nearby. The indicative site layout shows the retention and buffering of the boundary hedgerows. We welcome this and request that this is retained. The areas of open space also provide opportunities for ecological enhancement.

(Note: Following additional information submitted relating to Great Crested Newts any further comments from the ecologist will be reported to the committee).

**Melton Ramblers:** Objection -

At present G19 runs diagonally across the site and continues to Plungar. Diverting the path would increase the distance and result in the loss of yet more open space.

## Appendix B : Summary of representations received

### Neighbours:

Representations from 35 local residents have been received objecting to the application on the following grounds:

- Increased traffic on a single track road with farm access
- Limited passing place and no footpath / dangerous for pedestrians and horses
- More cars, more children, more people
- Parked vehicles obstruct view
- Blacksmith End poorly lit and has poor visibility
- Previous application for a children's nursery on Blacksmith End refused on grounds of traffic and parking
- Traffic generation figures are unrealistic (3 departures in peak period)
- Urbanisation / re-routing of public footpath
- Loss of agricultural land
- Loss of open space
- Loss of hedgerow
- Loss of wildlife and foraging areas for bats, birds, newts etc.
- Historical flooding in the area and on Blacksmith End would be exacerbated
- Properties on Blacksmith End would increase by 31%
- Harm to the character and appearance of the village and the wider landscape
- Makes no contribution to the character or sustainability of the village
- Loss of view and outlook
- There are brownfield sites available nearby
- Lack of infrastructure in Stathern
- School will shortly be over capacity, bus service reduced and shops are closing
- Currently houses for sale in the village
- Stathern should not be identified as a Service Centre as infrastructure is poor
- The site is not a windfall as it is identified as a reserve site in the Local Plan
- Contrary to policy C1(B) of the Local Plan (reserve sites)
- Does not comply with the definition of windfall in the NPPF glossary
- It would set a precedent for additional 'windfall' proposals on the land
- Several smaller developments would avoid Section 106 contributions and is

an attempt to get approval by the back door

- Contrary to policy SS3 of the Local Plan (unallocated sites) as there is no local need
- Housing supply and delivery in Melton Borough is strong so there is no need for this development to meet targets
- The Local Plan allocates 71 new dwellings for Stathern and there will be 104 so the target is exceeded and there is no need for more housing
- The housing target period is up to 2036 and the allocation for Stathern has already been met / is exceeded
- The Local Plan makes an allowance of no more than 10% windfall equalling 25 per year which is far exceeded
- A further 9 dwellings on top of the others approved and under construction in Stathern is not proportionate as required by policy
- Paragraph 49 of the NPPF requires that refusal of permission is justified where cumulative effects would be significant and undermine the plan making process (relates to emerging Local Plans).

## **Appendix C: Recommended Conditions**

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development to which this permission relates shall begin not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

2. No development shall commence on the site until approval of the details of the layout, scale, external appearance of the building(s) and the landscaping of the site (hereinafter called "the reserved matters") has been obtained from the Local Planning Authority.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

3. Prior to submission of any reserved matters application a written scheme of investigation will be submitted to and approved in writing by the local planning authority. It will define a programme of trial trenching assessment of the application area. This work will be undertaken in full and its results used to inform the preparation of a suitable Archaeological Mitigation Strategy (AMS) for the development area, to be submitted with any future reserved matters scheme.

Reason: To identify and to secure the appropriate level of work that is necessary to

record the significance of any heritage assets in accordance with the requirements of the NPPF.

4. No development shall take place until the Archaeological Mitigation Strategy (AMS) has been submitted to and approved in writing by the local planning authority. For land that is included within the AMS, no development shall take place other than in accordance with the provisions of the agreed AMS, which shall include a) the statement of significance and research objectives b) the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works and c) the programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the AMS.

Reason: To safeguard the significance of any heritage assets in accordance with the requirements of the NPPF.

5. The development shall provide a dwelling mix to provide choice within the market comprising 3 x 2 bed units, 3 x 3 bed units and 3 x 4+ bed units.

Reason: To cater for a range of housing needs and to accord with policy C2 of the Melton Local Plan and Section 5 of the NPPF.

6. No development shall take place until scaled and fully detailed plans of the construction and layout of the access onto Blacksmith End, together with inter vehicular visibility splays, are submitted to and approved in writing by the Local Planning Authority. The access shall be constructed in accordance with the approved plans.

Reason: To ensure a satisfactory access for vehicular traffic is provided in the interests of highway safety and to accord with Policy IN2 of the Melton Local Plan.

7. On plot parking for vehicles associated with the development shall be provided for each dwelling in accordance with the Local Highway Authority Design Guidance, together with electric vehicle charging points for each dwelling and each parking space shall be retained as such for the parking of motor vehicles as long as the development remains.

Reason: To ensure adequate provision is made for vehicular parking within the site and to accord with Policies EN9 and IN2 of the Melton Local Plan.

8. No development shall commence on the site until such time as a construction traffic/site traffic management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

Reason: To ensure a properly planned construction phase in the interests of highway safety and the residential amenity of nearby dwellings.

9. The development shall provide for a range of ecological enhancement measures incorporated within the development comprising bird and bat boxes, native species landscaping and refugia for amphibians, reptiles and hedgehogs in accordance with the opportunities identified in the Extended Phase 1 Habitat Survey by CBE Consulting dated December 2018.

Reason: To provide biodiversity enhancements in accordance with Policy EN2 of the Melton Local Plan and Section 15 of the NPPF.

10. No development shall commence on site until all existing trees that are to be retained have been securely fenced off by the erection of post and rail fencing to coincide with the canopy of the tree(s), or other fencing as may be agreed with the Local Planning Authority, to comply with BS5837. In addition all hedgerows that are to be retained shall be protected similarly by fencing erected at least 1m from the hedgerow. Within the fenced off areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and backfilled by hand. Any tree roots with a diameter of 5 cms or more shall be left unsevered.

Reason: In the interests of visual amenity.

11. No development approved by this planning permission shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by the Local Planning Authority and thereafter the scheme shall be complied with.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site.

12. No development approved by this planning permission shall take place until such time as details of a scheme in relation to the management of surface water on site during construction of the development has been submitted to, and approved in writing by the Local Planning Authority and thereafter the scheme shall be complied with.

Reason: To prevent an increase in flood risk, maintain the existing surface water runoff quality, and to prevent damage to the final surface water management systems through the entire development construction phase.

13. No occupation of the development approved by this planning permission shall take place until such time as details of a scheme in relation to the long-term maintenance of the surface water drainage system (including the SUDs) within the development have been submitted to and approved in writing by the Local Planning Authority and thereafter the scheme shall be complied with.

Reason: To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the surface water drainage system (including sustainable drainage systems) within the proposed development.

14. No development approved by this planning permission shall take place until such time as infiltration testing has been carried out (or suitable evidence to preclude testing) to confirm or otherwise, the suitability of the site for the use of infiltration as a drainage element, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate that the site is suitable (or otherwise) for the use of infiltration techniques as part of the drainage strategy.

15. The development hereby permitted shall be carried out in accordance with drawings numbered 7705-01-01 and 7705-10-10 received by the Local Planning Authority on 25th October 2019.

Reason: For the avoidance of doubt.

## **Appendix D : Applicable Development Plan Policies**

### **Local Plan**

- Policy SS1 Presumption in Favour of Sustainable Development.
- Policy SS2 Development Strategy.
- Policy C1(A) Housing Allocations
- Policy C1(B) Reserve Sites
- Policy C2 Housing mix
- Policy IN2 Transport, Accessibility and Parking.
- Policy D1 Raising the Standard of Design.
- Policy EN1 Landscape
- Policy EN2 Biodiversity
- Policy EN6 Settlement Character
- Policy EN9 Energy Efficient and Low Carbon Development
- Policy EN11 Minimising the risk of Flooding
- Policy EN12 Sustainable Drainage Systems
- Policy EN13 Heritage Assets

Stathern was designated as a Neighbourhood Plan Area in May 2019 but is at a very early stage of preparation.