

July 2020

## Planning Application by Hopkins Homes for 300 Homes, Bury Road, Woolpit.

### Update on Legal Action by Woolpit Parish Council

Outline planning permission for the erection of up to 300 dwellings, construction of a new spine road, land for a new primary school, burial ground extension, village car park and associated infrastructure at Land Off Bury Road, Woolpit, was granted under application DC/18/04247 by Mid Suffolk District Council (MSDC) Planning Referrals Committee on 21 February 2020, subject to the parties signing a section 106 agreement.

This decision to grant outline permission has not yet been legally 'granted' (that is published) probably because the agreement under section 106 Town and Country Planning Act 1990 has yet to be completed. The 106 agreement is likely to be complicated with lengthy sections for 'planning obligations' and infrastructure which includes a new road and two new roundabouts.

Woolpit Parish Council (WPC) believes the decision made on 21<sup>st</sup> February to be legally flawed. It has sought legal opinion on the decision from a barrister who has advised that there are grounds to challenge it. These grounds arise from MSDC having failed to keep its planning policy documents up to date. There are conflicts between the draft Joint Local Plan (JLP) which includes this site for development, the draft Woolpit Neighbourhood Plan which did not include it and the Five-Year Housing Supply report. The existing district Local Plan was made many years ago and did not anticipate the current housing demands made by central government. It is still the only adopted policy. MSDC planning officers sought to pre-empt the planning process by treating the draft JLP as if it has been adopted so allowing sites such as this to be developed.

On 25<sup>th</sup> June, instructed by WPC, legal advisers sent to MSDC a letter setting out the reasons why the decision was not correctly made. It referred to the errors in the report of the District Council's planning officer which recommended granting permission. The letter advises that WPC 'fairly and reasonably' wish to afford MSDC an opportunity to understand the errors in the Committee Report such that they can be corrected, and that the development application be re-considered by the Planning Committee. MSDC is invited to take leading counsel's opinion on the Committee Report and the legal grounds of challenge raised by WPC's own barrister. Potentially, this course of action could save both parties unnecessary and expensive time and costs of a judicial review. The grounds stated in the WPC letter are:

1. MSDC erred in law in finding the key policies to be out-of-date.
2. MSDC erred in law in failing to give adequate reasons for finding the key policies to be out-of-date.
3. MSDC failed to apply the correct legal test with regards to the weight to be given to emerging plan policies.

There is no guarantee that MSDC will take the suggested course of action nor that legal advice obtained by them will agree with WPC. The sending of this letter does not prevent the seeking of judicial review at a future time.

Unlike a refusal of planning permission, where the applicant has the right to appeal a decision, there is no right for objectors to appeal or challenge the granting of permission save by judicial review, which until the permission is formally granted cannot be commenced. Judicial Review is a costly, complicated and time-consuming process. It challenges how the decision is made, not the decision itself. Sadly, winning and having the permission overturned is not the end of the story. There is nothing to stop the developer or landowner re-applying for permission nor for MSDC to grant it. If the MSDC refused permission, then the developer could appeal. All planning authorities fear the burdens of the appeal process particularly when the appellant is a well-financed developer. We are not alone in challenging MSDC planning processes - Thurston has also done so.