



NORTH  
NORFOLK  
DISTRICT  
COUNCIL

# Development Committee

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**TO REGISTER TO SPEAK PLEASE CALL 01263 516150\***

\* THE OFFICE WILL BE CLOSED FROM 4.30 PM ON 21 DECEMBER AND WILL REOPEN ON 2 JANUARY

17 December 2018

A meeting of the **Development Committee** will be held in the **Council Chamber** at the Council Offices, Holt Road, Cromer on **Friday 4 January 2019 at 9.30am**.

Coffee will be available for Members at 9.00am and 11.00am when there will be a short break in the meeting. A break of at least 30 minutes will be taken at 1.00pm if the meeting is still in session.

Any site inspections will take place on **Thursday 24 January 2019**.

## **PUBLIC SPEAKING – TELEPHONE REGISTRATION REQUIRED**

Members of the public who wish to speak on applications are required to register by **9 am on Wednesday 2 January 2019\*** by telephoning **Customer Services on 01263 516150**. Please read the information on the procedure for public speaking on our website [here](#) or request a copy of "Have Your Say" from Customer Services.

Anyone attending this meeting may take photographs, film or audio-record the proceedings and report on the meeting. Anyone wishing to do so must inform the Chairman. If you are a member of the public and you wish to speak, please be aware that you may be filmed or photographed.

**Emma Denny**  
**Democratic Services Manager**

**To:** Mrs S Arnold, Mrs A Claussen-Reynolds, Mrs A Fitch-Tillett, Mrs A Green, Mrs P Grove-Jones, Mr B Hannah, Mr N Lloyd, Mrs B McGoun, Mr N Pearce, Ms M Prior, Mr R Reynolds, Mr R Shepherd, Mr B Smith, Mrs V Uprichard

**Substitutes:** Mr D Baker, Dr P Bütikofer, Mrs S Bütikofer, Mr N Coppack, Mrs J English, Mr T FitzPatrick, Mr V FitzPatrick, Mr S Hester, Mr M Knowles, Mrs J Oliver, Miss B Palmer, Mr J Punched, Mr J Rest, Mr P Rice, Mr E Seward, Mr S Shaw, Mr D Smith, Mr N Smith, Mrs L Walker, Ms K Ward, Mr A Yiasimi

All other Members of the Council for information.

Members of the Management Team, appropriate Officers, Press and Public



**If you have any special requirements in order  
to attend this meeting, please let us know in advance**

If you would like any document in large print, audio, Braille, alternative format or in a different language please contact us

**Heads of Paid Service:** Nick Baker and Steve Blatch  
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## AGENDA

**PLEASE NOTE: THE ORDER OF BUSINESS MAY BE CHANGED AT THE DISCRETION OF THE CHAIRMAN**

### PUBLIC BUSINESS

1. CHAIRMAN'S INTRODUCTIONS
2. TO RECEIVE APOLOGIES FOR ABSENCE AND DETAILS OF ANY SUBSTITUTE MEMBER(S)
3. MINUTES

To approve as a correct record the Minutes of a meeting of the Committee held on 29 November 2018.
4. ITEMS OF URGENT BUSINESS (to be taken under items 8 or 10 below)
  - (a) To determine any other items of business which the Chairman decides should be considered as a matter of urgency pursuant to Section 100B(4)(b) of the Local Government Act 1972.
  - (b) To consider any objections received to applications which the Head of Planning was authorised to determine at a previous meeting.
5. ORDER OF BUSINESS
  - (a) To consider any requests to defer determination of an application included in this agenda, so as to save any unnecessary waiting by members of the public attending for such applications.
  - (b) To determine the order of business for the meeting.
6. DECLARATIONS OF INTEREST

Members are asked at this stage to declare any interests that they may have in any of the following items on the agenda. The Code of Conduct for Members requires that declarations include the nature of the interest and whether it is a disclosable pecuniary interest.
7. OFFICERS' REPORT

### ITEMS FOR DECISION

#### PLANNING APPLICATIONS

- (1) **FAKENHAM - PF/18/1621** - Amendments to planning permission PF/15/1167 (Erection of block of 66 assisted living flats to the west of 35 dwellings) through changes to site layout, landscaping, boundary treatments, enlargement of building to west, south and east, removal of basement level and reconfiguration of floor plans, with associated external alterations. Amendments to approved housing mix of the 66 'housing with care' supported living flats, to change from

38 x 1-bed and 28 x 2-bed dwellings, to a revised mix of 27 x 1-bed and 39 x 2-bed dwellings. Removal of condition 3 (excavation and retaining wall details) & variation of condition 26 (to amend plans) of permission PF/15/1167. Additional retrospective request to regularise changes to siting and layout of wheelchair-accessible bungalow.

[New consultation: Amended description of development. Additional and revised information received. New retrospective element added.]; Meditrina Park, Trinity Road, Fakenham for Medcentres

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- (2) **BLAKENEY - PF/18/0932** - Erection of single storey front extension and two storey rear extension to north facing gable; alterations to rear elevation including enlargement of existing dormer windows and insertion of 2 no. dormers with 1 balcony; raised patio; Fairacre, 72 Morston Road, Blakeney, Holt, NR25 7BE for Mr & Mrs Timmins  
Page 25
- (3) **CROMER - PF/18/2181** - Installation of photovoltaic panels to roof of council offices; North Norfolk District Council, Holt Road, Cromer, NR27 9EN for North Norfolk District Council  
Page 30
- (4) **DILHAM - PF/18/0606** - Change of use from B1 light industrial to Sui Generis (car repairs) & erection of compound fence (part retrospective); Granary Works, Honing Road, Dilham, North Walsham, NR28 9PR for Mr Purkiss  
Page 35
- (5) **DILHAM - PF/18/1928** - Regularisation of first floor extension, two-storey extension, conversion & extension of outbuildings to two-storey annexe, & erection of enclosed covered way (Retrospective - amendments to previously approved application PF/05/1570); Northbrook Cottage, Chapel Road, Dilham, North Walsham, NR28 9PZ for Mr & Mrs Cole  
Page 42
- (6) **HOLT - PF/18/0939** - Erection of replacement two and a half storey dwelling with integral double garage, including new entrance wall / gates and alterations to the access and driveway; Garden House, Peacock Lane, Holt, NR25 6HD for Mr & Mrs Johnson  
Page 51
- (7) **APPLICATIONS RECOMMENDED FOR A SITE INSPECTION**  
Page 59
- (8) **NEW APPEALS**  
Page 59
- (9) **INQUIRIES AND HEARINGS - PROGRESS**  
Page 60
- (10) **WRITTEN REPRESENTATIONS APPEALS - IN HAND**  
Page 60
- (11) **APPEAL DECISIONS – RESULTS AND SUMMARIES**  
Page 61  
(Appendix 2 – page 67; Appendix 2a – page 70)
- (12) **COURT CASES – PROGRESS AND RESULTS**  
Page 62
8. **ANY OTHER URGENT BUSINESS AT THE DISCRETION OF THE CHAIRMAN AND AS PREVIOUSLY DETERMINED UNDER ITEM 4 ABOVE**

9. EXCLUSION OF PRESS AND PUBLIC

To pass the following resolution, if necessary:-

“That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A (as amended) to the Act.”

PRIVATE BUSINESS

10. ANY OTHER URGENT EXEMPT BUSINESS AT THE DISCRETION OF THE CHAIRMAN AND AS PREVIOUSLY DETERMINED UNDER ITEM 4 ABOVE

11. TO CONSIDER ANY EXEMPT MATTERS ARISING FROM CONSIDERATION OF THE PUBLIC BUSINESS OF THE AGENDA

**OFFICERS' REPORTS TO  
DEVELOPMENT COMMITTEE - 4 JANUARY 2019**

Each report for decision on this Agenda shows the Officer responsible, the recommendation of the Head of Planning and in the case of private business the paragraph(s) of Schedule 12A to the Local Government Act 1972 under which it is considered exempt. None of the reports have financial, legal or policy implications save where indicated.

**PUBLIC BUSINESS - ITEM FOR DECISION**

**PLANNING APPLICATIONS**

**Note :-** Recommendations for approval include a standard time limit condition as Condition No.1, unless otherwise stated.

- (1) **FAKENHAM - PF/18/1621** - Amendments to planning permission PF/15/1167 (Erection of block of 66 assisted living flats to the west of 35 dwellings) through changes to site layout, landscaping, boundary treatments, enlargement of building to west, south and east, removal of basement level and reconfiguration of floor plans, with associated external alterations. Amendments to approved housing mix of the 66 'housing with care' supported living flats, to change from 38 x 1-bed and 28 x 2-bed dwellings, to a revised mix of 27 x 1-bed and 39 x 2-bed dwellings. Removal of condition 3 (excavation and retaining wall details) & variation of condition 26 (to amend plans) of permission PF/15/1167. Additional retrospective request to regularise changes to siting and layout of wheelchair-accessible bungalow.  
[New consultation: Amended description of development. Additional and revised information received. New retrospective element added.]; Meditrina Park, Trinity Road, Fakenham for Medcentres

**Major Development**

**- Target Date: 28 November 2018**

Case Officer: Mr R Parkinson

**The site**

The site lies behind (west of) the Morrison's supermarket and on the south side of the medical centre on Trinity Road, Fakenham. In planning policy terms, it forms part of site allocation F01 which is a mixed use allocation with a Development Brief which identified this part of the wider allocation as being for employment uses.

The site is already under construction and has two distinct 'halves', which were created by the layout of the approved extant permission PF/15/1167 which allows for 101 dwellings overall:

- The eastern half immediately behind the supermarket contains 35 recently-completed affordable housing dwellings, comprising 2–3 storey flats and terraced houses and a wheelchair-accessible bungalow.
- The western half of the site remains undeveloped but is the site of the "Housing with Care" element of the permission PF/15/1167; the approved development comprises a basement & 3-storey development of 66 flats for use as individual "assisted living / housing with care" dwellings, which are required to be operated as affordable housing. This is permitted as a T-shape layout, orientated parallel to Thorpland Road on the north-west boundary, with a car parking courtyard to the north-east of

the flats and a landscaped communal garden area to the south–west of the building, and a turning area for refuse vehicles and a parking area along the southern boundary.

The site slopes from west to south-east, being lower to the south boundary which borders the unmade eastern section of Rudham Stile Lane which is a single lane and private cul-de-sac.

There are 6 neighbouring residential properties fronting onto Rudham Stile Lane and facing the development site, and rear gardens of 3 dwellings on Holt Road which back onto the completed part of the site. The boundary with Rudham Stile Lane and The Barn (adjacent to the south-west corner) comprises a hedge interspersed with larger trees. There is also hedging along the north-west boundary with Thorpland Road, with recent footpath to the medical centre behind this hedge, running parallel with Thorpland Road.

Dwellings/farms face the site from the west of Thorpland Road, these are well set back from the road.

### **Relevant Site Constraints**

Adjoining LDF Residential Area and within LDF Settlement Boundary  
Part of a Mixed Use Allocation and within LDF Employment Area  
SFRA - Areas Susceptible to Groundwater Flooding  
EA Risk of Flooding from Surface Water 1 in 1000  
Unclassified Road  
Section 106 Planning Obligations

### **Relevant Planning History**

PO/10/0343

Erection of Community healthcare facilities including care home, Gym/Healthclub, children's day nursery and office accommodation  
Land adjacent Morrisons, Clipbush Lane, Fakenham, NR21 8SW  
Approved 11/08/2010

PF/10/0344 PF

Erection of Medical Centre and pharmacy with ancillary parking and new road access  
Approved 06/07/2010

PM/13/0953

Land at Clipbush Park, Clipbush Lane, Fakenham, NR21 8SW  
Erection of buildings to provide C2 (care home), D1 (healthcare facilities and day nursery) and B1 (offices) [Reserved matters pursuant to outline permission PO/10/0343].  
Approved 08/11/2013

PF/15/1167

1 Saxon Way, Fakenham

Erection of three-storey (+ basement) block of 66 assisted living/housing with care flats, three-storey block of 13 general needs and/or supported living flats, three-storey block of 14 general needs flats, 6 two-storey and 1 three-storey general needs houses and 1 wheelchair accessible bungalow.  
Approved 18/10/2016

Condition Discharge applications for permission PF/15/1167 (Land at Trinity Road, Fakenham), as proposed for all parts of the development:

- |  |             |                  |
|--|-------------|------------------|
| • Condition 7 (surface water drainage scheme)  | CDC/15/1167 | Approved         |
| • 8 (bin stores)                               | CDE/15/1167 | Pending decision |
| • 10 (Down pipes and foul drainage pipes)      | CDD/15/1167 | Approved         |
| • 11 (Juliette Balcony)                        | CDD/15/1167 | Approved         |
| • 12 (Soft landscaping)                        | CDB/15/1167 | Approved         |
| • 15 (Landscape Management & Maintenance Plan) | CDE/15/1167 | Pending decision |
| • 17 (fencing)                                 | CDE/15/1167 | Pending decision |
| • 18 (small mammal access)                     | CDE/15/1167 | Pending decision |
| • 19 (building materials)                      | CDA/15/1167 | Approved         |
| • 21 (fire hydrants)                           | CDC/15/1167 | Approved         |
| • 23 (Construction Traffic Management Plan)    | CDB/15/1167 | Approved         |

## **THE APPLICATION**

This application seeks to amend the designs and range of approved plans for the block of 66 'Housing with Care' flats within the western half of the site, with the eastern half largely unaffected save for regularising the change of siting and layout to the wheelchair-accessible bungalow. Case law has established that any approval of the amendments will create a new, revised planning permission which the eastern half of the site will also be subject to.

The full range of changes are listed below and mostly affect the 66 dwellings of "Phase 3", being the T-shaped block of Housing with Care flats which is not yet commenced:

### Changes to the building's size:

The siting / position of the block of flats is changed in the following ways:

- The building's north-west wing facing Thorpland Road is extended south-west from 78m to 84m measured end-to-end, in large part due to bringing staircases inside the building and making 1-bedroom flats into larger 2-bedroom flats.
- The south-eastern arm of the building is extended eastwards, increasing from 42.5m to 46m measured end-to-end (also due to staircase and flats changes).
- The building's north-west elevation moves 4m closer to Thorpland Road.

In relationship with the neighbouring properties, the changes result in:

- The south-west corner moves 2m closer to The Barn and Rudham Stile Lane, being 32m from the corner of The Barn house, and 29.5m from the southern boundary with the private Rudham Stile Lane road.
- The northwest elevation moves to 35m away from the buildings on Thorpland Road.
- However, the closest distance to the southern boundary remains at 20m.

### Other external changes:

- An approved basement (to be used for laundry, plant facilities, and mobility scooter store and refuse collection) is to be removed, bringing the scheme entirely above-ground.
- An approved 'service access road' next to Thorpland Road is to be removed and a reclaimed landscaped space is to be provided in its place, with direct access to new private gardens for residents. This removes the requirement to include earth stabilisation measures or retaining walls / structures as was required under Condition 3 of PF/15/1167.

- The previously-flat elevations have been given some relief by using 2-bedroom flats to extend off the building plane on each storey.
- The previously-approved stairs and lifts are removed from being 'extensions' to the main building and are now brought into the building, making the building appear more unified.
- 3 new windows are added to each of the gable elevations in place of the former stairs.
- The overall roof height is lowered by removing lifts from the ends of the building, and instead using the additional lift in the central area to better effect.
- The approved horizontal brick band beneath the roof eaves has been removed and cream render is extended from the ground floor all the way to the roof level.

#### Internal changes:

- More space is created internally for wider corridors and a larger social space at upper floors and a new 'care office' on the ground floor.
- The laundry and plant/electrical rooms and mobility scooter room are relocated into the ground floor, which has reorganised the central core area.
- The previously-indicated "café community hub" and large kitchen area appear to have been removed and is replaced with a new hair salon and reception office for improved security, and wider dining/lounge area and smaller servery/kitchen.
- The guest bedroom removed from the ground floor and relocated to the second floor.
- The on-site staff accommodation is removed altogether as it is no longer required.
- A new lift is provided in the central lobby removing the need for the lift overruns at each end of the building to protrude above the main roof line.
- Creating a larger space at ground floor allows a social room to be partitioned for activities.

#### Landscaping / curtilage / parking changes:

- New gardens for all ground floor west-facing flats, with patios and hedge screens.
- The layout of paving and hard surfacing is adjusted slightly following removal of the stairs.
- Communal refuse stores are relocated adjacent to the southern boundary fence, 4m inside the site boundary with Rudham Stile Lane.
- The refuse stores are reduced in number by a third.
- The northern parking area is smaller, to allow small private gardens and hedges to each ground floor flat. 5 parking spaces displaced to the southern end of the site, to replace spaces previously anticipated for residents (x2), doctors (x2) and a resident nurse (x1).
- The smaller parking area caused loss of three trees from the parking area.
- The turning head adjacent to the southern boundary is widened to accommodate the 5 relocated parking spaces.
- At the south-eastern end of the building a paved terrace for outdoor dining is proposed to be removed and be replaced by a landscaped garden area with more room for trees.
- At the northern corner of the site the approved refuse store running parallel to the Thorpland Road footpath is removed and relocated to the front parking area.

#### Other retrospectively-proposed changes:

- A retrospective proposal seeks to regularise the fact that the wheelchair-accessible bungalow has been built approximately 2m north-east of the approved location



(further away from the Rudham Stile Lane boundary), to within 2.5m of the new, neighbouring 2-storey house to the east; the resulting layout change provides a wheelchair-sized parking space on both sides of the dwelling. The elevations have changed slightly to suit.

- The materials used on the 3-storey block of 13x general needs flats already built to the west of the 66 flats have changed slightly from what was originally approved. The approved plans showed two vertical columns of cream bricks on the rear (west) elevation, but these are now replaced with red bricks (see plan P005 rev D). This makes the elevation appear unified between the upper brick band and plinth and is a welcome change.

## **REASONS FOR REFERRAL TO COMMITTEE**

At the request of Cllr R. Reynolds and Cllr. A Claussen-Reynolds due to concerns about the site's drainage and changes to the design and possible implications for neighbouring residents, and because the public concern warrants further discussion.

## **TOWN COUNCIL - Fakenham Town Council – Objects.**

Notes the support in principle for the type of housing proposed but **Objects** to recent amendments; the plans are not adequate for a design of this nature and scale:

- The (1.8m) proposed fence is not high enough to adequately preserve privacy and amenity. A 2.4m fence should be provided in the line proposed, so offer a shield to noise and light.
- The landscape plan is not sufficient to provide adequate privacy to neighbours on Holt Road adjoining the already-constructed homes. A more comprehensive plan of evergreen and mature planting should be provided, to shield the gardens and windows of adjoining properties, in addition to the taller fencing.
- The amended fence should be provided prior to first commencement of building works, to reduce impacts on health and quality of life, in line with the Noise Policy Statement 2010.
- The gate in the fence must be a locked gate for pedestrian access only, and be limited to use only for maintenance of the planting.
- No vehicle access should be allowed between the site and Rudham Stile Lane at any time during construction or post-completion.
- Lighting should be agreed as per condition 5 of the permission PF/15/1167. At this stage there are no details supplied.
- The Council notes the applicant's intransigence towards considering alternative forms of lighting to the car park, and recommends that lighting should be no more than 4m tall, especially near the southern and western boundaries, to protect neighbours' amenity and the surrounding environment.

Only in combination will the above measures ensure the development accords with NNDC Policy EN 13 and paragraph 180 of the National Planning Policy Framework.

The Town Council also noted previous concerns over:

- Public health concerns from the sewage and other services installations.
- Tree works concerns, including the effects on mature oaks.

The Town Council also raised questions about the past permissions at the site:

- Was the procedure for the previous applications' consultations correct around the change of use from an employment allocation into a housing site?
- Did the previous permission PF/15/1167 increase the levels of parking above that in permission PM/13/0953?
- Has the foul drainage holding tank been approved?
- Did the developer need permission to connect to domestic foul sewage and gas supplies?
- Have boundary treatments been specified? Will it be robust and prevent access into the private Rudham Stile Lane cul-de-sac?
- Does the applicant control all the land in the application and can they begin works if not?

The Town Council has also set out the mitigation measures it considers to be necessary if their objection is to be removed. These mitigations include requiring a solid close board fence along the southern boundary of at least 2.4m height.

### **CONSULTATION AND PUBLIC REPRESENTATIONS**

Public consultation has been undertaken on three separate occasions when either the original plans were amended or it became apparent that the description of development needed to change to reflect the works undertaken and/or proposed. The latest and current public consultation period runs to Tuesday 02 January 2019, reflecting only the changes to the description to include the 'retrospective wheelchair bungalow'.

On each occasion the application has been publicised as both a 'major' development and a 'departure' from adopted local planning policy.

There have been 10 objections from local residents and the applicant has submitted two letters of 'public support' to contest some of these.

### **Objections:**

#### **Concerns over the current proposals:**

##### **Amenity –**

- Notes the Town Council object along with residents over public health and environmental issues.
- Neighbours' concerns from previous permissions should be investigated now, and advertised and made available for comment – especially boundaries, lighting, noise, privacy, existing trees and waste management.
- Construction noise and disruption has already been significant and will continue.
- The separation between residential gardens is not sufficient – and previous permission PM/13/0953 had used gardens and staff parking as a separation buffer.

##### **Drainage –**

- The site plans do not show the drainage attenuation installations along the southern boundary, and do not show the proposals for foul waste disposal.

##### **Utilities & Infrastructure**

- The current (unauthorised) use of 3 Rudham Stile Lane for connecting this 100 house development into the existing domestic systems do not appear to have consents from relevant authorities or utility providers.
- The change from business / care home use into dwellings will have a compounding

effect on the infrastructure in the area and affect other major schemes in the town.

- Use of the private road has not been authorised for these major works.

#### **Principle / housing tenure –**

- The proposals appear to have changed the use of flats from “assisted supported living” to “dwellings” which is not in compliance with the policy for that part of the site, and ‘general needs flats’ have no connection with employment generation.

#### **Boundary treatments –**

- The southern boundary along Rudham Stile Lane needs to be subject to conditions and be advertised for neighbours to be able to comment on.

#### **Tree planting –**

- New trees along the southern boundary (as already required) should be required and the scheme should use mature trees rather than saplings.
- The construction of the newly-built houses has removed trees from the boundary alongside residents rear gardens and resulted in loss of privacy; new fast-growing trees should be provided in their place. A proposed single Acer and other individual trees are not sufficient.

#### **Other concerns -**

- The plans may be changed again in the future without public consultation.
- The site notices have been erected in illegal locations (telegraph poles) and in an illegal form using ink that has since washed off.

#### **Concerns over the compliance of works undertaken so far:**

- **Trees** - the excavations and works around existing trees along the southern boundary (including oaks) are exposing roots and causing damage.
- **Construction noise** is very intrusive and plant is operated from 7am – 5pm including weekends.
- **Foul water drainage** – there is a large storage tank constructed adjacent to the resident’s boundary (on the north side of the private road Rudham Stile Lane), presumed to be a temporary foul water attenuation tank pending a permanent solution. No notice appears to have been given to local people, the District Council or the Town Council or statutory undertakers.
- **Housing tenures** – the development constructed to date appears to be advertising housing as ‘to let’ flats, possibly contrary to the permitted use as affordable housing, and if the dwellings are for residents on the NNDC housing waiting list there should be no need for the dwellings to be advertised.
- **Utility connections** –
- The applicant has purchased nr 3 Rudham Stile Lane for connecting their large scheme into the gas and sewage systems on a domestic supply, crossing the private access road without landowners’ consent or relevant permissions.
- The gas connection was laid without using specialist contractors and this raises safety and legality concerns.
- Who will have responsibility for any maintenance or repairs in the future?

#### **Concerns over the advertisement and procedures of the previous applications:**

- Within application PM/13/0953 the proposals were amended without due public re-consultation.
- Within application PM/13/0953 the applicant ignored a suggestion that the development was proposed on land not in their control, namely the ‘old’ Rudham Stile Lane (to south).

- Application PF/15/1167 was not advertised correctly and the site address had changed so the local residents were not aware of the proposals.
- Local residents' gardens were incorporated into the development without their consent.
- Details being agreed under conditions currently should be made available to public view.
- The process of changing the use of the land from a defined employment area with permitted care home and offices, to a change which allows homes and social housing is possibly unauthorised and there is concern that this could be repeated for future phases.

**Non-Material planning issues:**

- Conduct of contractors used on the construction site currently.

**Support:**

**Design –**

- The proposals are designed to make better value for the development and increase the garden space available and improve the external appearance and improve interior ventilation and light and layouts for new residents.
- There will be little or no material change to the size / height / location of the building and all previous requirements for boundary treatments will remain in place or have been adhered to already.

**Use of the site –**

- There will be no change to the use class of the individual housing units.

**Drainage –**

- The scheme does have consent for discharging into the public sewers with no environmental or public health issues.

**LOCAL MEMBERS –** Cllr Claussen-Reynolds and Cllr Reynolds.

- Have described the residents' concerns and reiterated some reservations over the previous applications' procedures.
- Considers it necessary to address concerns about the site's drainage and changes to the design and possible implications for neighbouring residents.
- Believes the public concern warrants further discussion and consideration by Committee.

**CONSULTATIONS**

**Conservation and Design Officer –** No objection in principle but does not support the recent amendment.

The proposed amendments to facilitate the 66 'Extra Care' assisted living flats offers some scope to achieve minor design enhancements to the previous scheme approved under PF/15/1167. The change in layout and provision of the wider internal corridors in-turn creates stepping to the flat and rather imposing frontage. The three stepped bays to the west elevation and bay to the south elevation help in breaking-up the single elevation plane and offer some articulation. Creating additional natural light to the internal spaces will improve functionality and the residential environment. The removal of the basement level raises no overriding design concerns.

The proposal to remove the approved horizontal brick band beneath the roof eaves and replace this with cream render extended from the ground floor all the way to the roof level is not acceptable; the scheme will look overbearing and inconsistent with the character of the rest of the development.

**Norfolk County Council (Highway Authority) – No objection.**

In addition to the amendments described by the applicant it is noticed that the car parking layout and the number of parking spaces appear to have changed from that layout previously seen by the Highway Authority. 2 parking spaces appear to have been removed and 5 spaces have been moved from the front of the site to a less convenient location at the rear of the site. Notwithstanding the changes made, there is no objection to the amendments.

**NNDC Strategic Housing team – Supports.**

The amendments will continue to help meet the proven housing need for more Extra Care provision across North Norfolk; recent analysis by Norfolk County Council identified a requirement for a further 486 individual properties of Extra Care provision in North Norfolk by 2028. Currently there is no Extra Care provision in Fakenham, with the nearest Extra Care scheme in High Kelling.

The scheme will provide a mixture of 1 and 2 bedroom flats which will all be provided as affordable homes to rent or buy on a shared ownership basis. The mix of size of flats and affordable tenure is supported. All 66 flats have been designed to be accessible. This scheme is therefore fully compliant with policies H01 and H02. The use of more two-bedroom flats than 1-bedroom flats will address a pressing need for residents who downsize from larger homes.

The proposed changes seek to remove the basement, step out some of the flats and includes a number of internal changes to the communal areas as well as the provision of a hairdressing salon as part of the scheme. Most importantly the changes allow more natural light to be available in the corridors and add visual interest and variety to the corridors and communal areas. These changes have been accommodated with only minor changes to the foot print of the scheme and have maintained a mixture of public and private garden areas for the benefit of the residents.

**NNDC Environmental Services Team – Requires amendments before supporting.**

The refuse stores are undersized for the 66 flats and should be revised. Ideally there would be 3x refuse store compounds located close to entrances and in convenient locations for collection. It is noted that the flats are age-restricted in tenure and unlikely to include 'family' housing, and so a smaller quota of bins would be acceptable provided there is room for them to be expanded should it be found to be necessary; as a minimum 16 bins should be available now, comprising 8 refuse, 8 recycling – with room to extend for two more each. The 35 dwellings are adequately served now with a mixture of communal bins to flats and individual wheelie bins to houses.

**Anglian Water – No objection.**

The details proposed for surface water drainage under application CDC/15/1167 have

proven that they are the most sustainable option available and can achieve both a slow greenfield rate of discharge and a quicker rate if Anglian Water deem it necessary for connection to their public surface water sewer in Trinity Road / Clipbush Lane.

Anglian Water has recently confirmed the foul drainage scheme proposal is acceptable to connect into an existing public sewer at 3 Rudham Stile Lane. They confirm this will be of an appropriate size and capacity to cater for all 101 dwellings within the whole site.

**NNDC Building Control Officer** – Verbal comments.

Confirmed the associated Building Regulations applications for the foul drainage connections to 3 Rudham Stile Lane have been approved and are expected to be installed satisfactorily.

**HUMAN RIGHTS IMPLICATIONS**

It is considered that the proposed development may raise issues relevant to

Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights, and the general interest of the public, approval of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

**CRIME AND DISORDER ACT 1998 - SECTION 17**

The application raises no significant crime and disorder issues.

**RELEVANT POLICIES**

**North Norfolk Site Specific Allocations Development Plan Document** (Adopted Feb. 2011)

Policy F01- Mixed Use: Land North of Rudham Stile Lane

**North Norfolk Core Strategy Policies** (Adopted 2008):

- SS 1 – Spatial strategy for North Norfolk
- SS 3 – Housing
- SS 4 – Environment
- SS 6 - Access and infrastructure
- SS 8 – Fakenham
- HO 1 – Dwelling mix and type
- HO 2 – Provision of affordable housing
- HO 7 – Making the most efficient use of land (housing density)
- EN 2 – Protection and enhancement of landscape and settlement character
- EN 4 – Design
- EN 6 – Sustainable construction and energy efficiency
- EN 9 – Biodiversity and geology
- EN 13 – Pollution and hazard prevention and minimisation
- CT 2 – Developer contributions
- CT 5 – The transport impacts of new development
- CT 6 – Parking provision

### **Other material considerations:**

North Norfolk Design Guide Supplementary Planning Document (December 2008)  
Fakenham F01 Development Brief (approved by Council, pending formal adoption).

#### **National Planning Policy Framework (NPPF):**

- Chapter 5: Delivering a sufficient supply of homes
- Chapter 8: Promoting healthy and safe communities
- Chapter 9: Promoting sustainable transport
- Chapter 11: Making effective use of land
- Chapter 12: Achieving well-designed places
- Chapter 14: Meeting the challenge of climate change, flooding and coastal change
- Chapter 15: Conserving and enhancing the natural environment

### **MAIN ISSUES FOR CONSIDERATION**

1. Principle of the proposed development.
2. Design and layout changes.
3. Neighbouring amenity.
4. Highways layout, refuse provision and parking.
5. Landscape, trees and boundary treatments.
6. Drainage and flooding.
7. Other material considerations – including Housing Tenures.
8. Planning obligations and conditions.
9. Other issues.

A commentary on the historic changes to land use allocations / designations is provided at **Appendix 1** of this report in response to local residents' concerns / queries.

The related specific questions raised by Fakenham Town Council are also responded to within **Appendix 1**.

### **APPRAISAL**

#### **1) Principle of the proposed development:**

The development approved by permission PF/15/1167 is already underway in two distinct parts with general needs affordable housing in the eastern half of the site complete and ready to be occupied. This application to amend the extant implemented permission essentially affects only the western half of the site where 66 'Housing with Care' extra care affordable dwelling flats were originally permitted in a three-storey development. Case law has established that any approval of the amendments will create a new, revised planning permission for the whole site, which the eastern half will have to adhere to if there are any outstanding matters to be fulfilled within that part of the development.

The proposals will continue to deliver a much-needed Extra Care / "Housing with Care" scheme in Fakenham to meet an identified need for Extra Care housing within the overall affordable housing stock. Even as amended, the development will help improve the housing stock of 1 and 2-bed dwellings in the area, all of which will be accessible housing. Policy HO1 will continue to be satisfied. As a continuation of the form and function of the previous extant application, the principle of the development remains acceptable.

The scheme removes the one unit of staff overnight accommodation because the business model apparently no longer needs on-site staff accommodation, but this was not counted amongst the overall 66 dwellings originally and only makes the scheme's layout and facilities more efficient. This will not result in loss of jobs or services to residents, only a different pattern of staff attendance.

## **2) Design and layout changes:**

### **Form, layout and scale -**

The same approach to design, scale and general appearance of the development is continued with the 3-storey T-shaped block of flats, using brick and render to be consistent with the medical centre development to the north-east. What was previously a rather austere and stark form of design in the approved scheme has now been softened somewhat and is improved overall by adding relief, shadow lines and interest to the otherwise long and flat, stark and uniform elevations. Further, the distribution of materials in the elevations has been improved by revising the positions of cream brick panels amongst the white render and red brickwork.

By removing the lifts at each end of the building it now appears more harmonious and balanced, and it removes the 'buttress' effect. As the designs now include new windows to some very prominent parts of the east, south and north elevations the development has a better sense of activity and natural surveillance over the common areas and car parking. The roofline also becomes much more consistent and less jarring because the various lifts no longer protrude so obviously above the main roof.

The Design Officer has objected to the revised plans which have removed the uppermost horizontal brick banding and instead extends the cream render all the way from ground to the roof level. By removing the horizontal brick banding there is less connection with the rest of the development which has the banding, but it actually it provides improved verticality and will appear less bulky and elongated. Overall, as the scheme still retains a horizontal arrangement and rhythm, it is considered that the removal of the uppermost brick band is not so detrimental that it creates an unacceptable change to the overall development.

These changes have been accommodated with relatively minor changes to the footprint and siting of the building, with only a small difference in the relationship with neighbouring properties, and have maintained a mixture of public and private garden areas for the benefit of the residents.

### **Materials and appearance -**

The applicant has confirmed that the materials used in the 35 dwellings as approved within application CDA/15/1167 will also be used in the block of 66 flats, which will ensure a higher quality finish. The previously-approved materials are considered to reflect the colour, tone and texture of materials used at the neighbouring Medical Centre and on houses at the southern end of Thorpland Road, so achieves the broad objectives of the design policies in the Core Strategy and NPPF.

As with the 35 homes to the east, the details and positions of rainwater downpipes and foul drainage downpipes (which link to the outstanding surface water drainage scheme) shall need to be agreed by conditions. Conditions shall also require the Juliette balconies used on this block of flats to be as per the details approved for the houses under application CDD/15/1167.



### **Internal changes -**

The changes will create more room within the building for social space and for natural light to reach the corridors. Removing the stairs from the ends of the building provides additional windows in the gable elevations and improves light inwards and surveillance outwards, especially towards the footpath running behind the hedge on Thorpland Road.

Residents will benefit from more visual interest and variety to the interior, along with improved social space and increased facilities such as a hair salon and activity rooms, as well as a new 'care office' on the ground floor which improves the security and welcome to visitors and residents alike.

### **3) Neighbouring amenity:**

#### ***Building proximity –***

The building height has remained the same but the footprint has been extended towards neighbours by up to 4m in places. Although closer, the separation distances remain in excess of the minimum acceptable standards set out in the NNDC Residential Design Guide, which is at 21m between ground floor 'Primary' (living room) windows, increasing to 24 and 27m for windows on first and second floors.

The closest neighbouring dwellings will be the wheelchair accessible bungalow to the east (31m away) and houses on Rudham Stile Lane to the south (32m+), The Barn to the south west (32m away) and properties on Thorpland Road (35m+) to the west. These will all remain in excess of the 27m minimum requirement in the Design Guide. In addition, existing and proposed tree, shrub and hedge planting around the perimeter (to be required by conditions) will provide an adequate screen between the site and all neighbours, including neighbours on Rudham Stile Lane.

There are 3 new windows to the south-facing corridor facing towards Rudham Stile Lane, and 3 new windows to the east facing the new affordable housing. Any slightly increased overlooking / loss of privacy will be an acceptable level as the separation distances required is the same 27m standard as described in the Residential Design Guide.

It is therefore considered that there will be no significantly detrimental increase in the building appearing overbearing or over-dominant, nor will the proposal result in an unacceptable adverse loss of privacy or overlooking.

#### ***Noise / boundary treatments –***

There will be increased vehicular activity around the southern boundary along Rudham Stile Lane where 5 car parking spaces have been relocated into the turning head area. The development site boundary is effectively set 4m north of the legal ownership boundary which lies against Rudham Stile Lane, and was originally approved as a chain-link fence proposal. A chain link fence would have allowed car headlights and noise across the boundary to impact the neighbours to the south, and would also not have been sufficiently secure.

However, the application as now proposed is to amend the previous approved drawings and construct a new close board timber fence in place of the previously-shown chain-link fence running parallel with Rudham Stile Lane. In principle, this solid boundary would be both secure and provide an effective barrier against the car headlights and vehicle disturbance, and reduce some of the noise and sense of activity.

There has been some concern about the proposed heights and construction of the close board fence, which remains unresolved. The applicant has resisted a 2.4m fence, believing 1.8m to be sufficient, which is understandable. However, even with the separation

distances involved, the development is still permitted to be built on raised land levels and the site slopes down to the south as well. Therefore, in the interests of providing the best possible security and to minimise any possible impacts from overlooking and disturbance from lighting and other factors, it is considered reasonable and necessary to insist on a 2.4m high fence, constructed using concrete posts for optimal maintenance and security. As with the previous permission, hedgehog / small mammal access will need to be incorporated. The applicant will need access to the land adjoining the fence without relying on gaining permission to use the private road, so a secure gate will be included in the fence, to be locked and with access controlled by the staff of the Housing with Care scheme.

The circa 4m strip of verge to the south of the new fence and on the north side of Rudham Stile Lane will remain in the applicant's ownership but will need to be planted to provide an effective screen to the development, and will reduce light pollution.

It would be sensible to ensure this fence and the planted hedge / tree line is in place prior to the commencement of the construction of the flats, so that the landscaping has a chance to become established, is protected from the construction works, and to provide some defence from the construction site activities.

#### ***Construction disturbance –***

The details approved under Condition 23 of the previous permission includes hours of construction work within the applicant's Construction Traffic Management Plan (CTMP). This restricts working hours and site deliveries and collections to 07:30 – 17:00 Monday – Friday and 08:00 – 13:00 Saturdays, with no work on Sundays or Bank Holidays. It would be unreasonable to impose any more onerous restrictions on an amended permission, but the new development will be required by condition to adhere to these hours and the CTMP.

Environmental Protection team and Planning Enforcement officers will be liaising with the on-site personnel to ensure breaches are minimised. An Advisory Note will also be added to any permission requesting the developer follows the Considerate Constructors Scheme's Code of Good Practice.

#### **4) Highways layout, refuse provision and parking:**

##### ***Highways safety -***

The service road as previously approved was only used to access the basement; its removal from the scheme is an enhancement through improving the landscaped setting of the development. There are no changes to the highway geometry of the site and the highways safety of the development is consequently improved by removing the service road.

##### ***Parking -***

There is no change to the number of parking spaces proposed in this amended scheme. Within the development, 5 parking spaces have been moved from the parking courtyard at the front of the site to a less convenient location at the rear of the site within the turning head area. Revised plans have also improved the layout and convenience of the front courtyard parking and provided access to a new bin store.

The changes to the parking layout have been necessary as a result of now providing new private front garden spaces to all the ground floor flats facing the front car park. The parking provides 25 spaces for residents (including 3 disabled spaces), and 4 visitor parking spaces, and a much-improved sense of private defensible space for ground floor flats.

The 5 spaces displaced to the southern end of the site were previously shown to be required for residents (x2), doctors (x2) and a visiting nurse (x1). These may not be required as the

medical centre is so close, on this basis there could be more resident's or visitor parking available. Any changes to traffic patterns in this corner of the site are considered unlikely to be significant to either future residents of the scheme or neighbours along Rudham Stile Lane, but a parking allocation plan shall be required by conditions to ensure that dedicated visitor spaces, resident spaces and convenient medical spaces are available and provided with identification and signage.

The Town Council has questioned whether there are fewer spaces than the health centre and employment uses had which were previously approved under PM/13/0953. Making any comparison between the two is not material to this application as the context and policy criteria are so different. Nevertheless, that alternative permission proposed 123 parking spaces for visitors and staff together with designated ambulance bays. This development proposes 93 spaces across the 101 total number of dwellings, comprising visitors, medical staff and residents. As such the 'new' traffic impact will be much reduced, and being entirely-residential in nature the impact will be spread across the day rather than creating a peak hour commuter impact that would happen with the alternative employment uses.

Noting the amendments proposed, the Highway Authority raises no objection.

#### ***Refuse collections -***

The amended layout has reduced the size and capacity of the refuse stores but there is scope for the capacity to be increased and an appropriate compromise has been found to the Environmental Services' team's satisfaction. The positions / locations for collection are suitable for refuse vehicles but less convenient for residents to use and unfortunately only contains two refuse store areas. It has proven impossible to provide a third refuse store closer to the flats without compromising access, landscaping or outlook from flats. The provision of bins and their appearances will be required by conditions.

The application as submitted showed a bin store in the north-west corner but this was inconvenient, open to abuse and unsightly in views and proximity from flats. It has since been relocated to be more usefully and conveniently located at the front of the site, where it avoids being in direct view of houses surrounding the parking, and is now accessible for collection and is screened with ivy-clad trelliswork.

### **5) Landscape, Trees and Boundary treatments:**

#### ***Planting plans -***

Removing the basement and service road has also removed the need for changes in ground levels or mounding alongside Thorpland Road, but the plans have not confirmed the final levels, so a condition will need to be used to clarify this. In general, the amendments will improve the growing conditions and feasibility of new woodland screening to be provided along the western boundary.

A planting scheme for the site (including the southern boundary) has already been approved within the details submitted under Condition 12 of the original permission (application CDB/15/1167); this included groundwork preparation, planting schedules and protection details and the Landscape Officer at the time confirmed the details were appropriate. This new application has been complemented with an updated Soft Landscaping Plan to reflect the new layout and retains the general specifications, so it is considered that the revised details still remain acceptable and their use will be required by conditions.

Neighbouring residents have raised concerns that the previous hedge and trees were greatly reduced or removed along the existing tree line along Rudham Stile Lane. There is an existing and ongoing requirement for the trees and hedge along the southern boundary with

Rudham Stile Lane to be bolstered with new planting to provide effective screening. This is required by Condition 13 (requiring southern boundary planting) of permission PF/15/1167; once it is planted it will redress some of the damage done.

However, Conditions 12 and 13 remain incomplete and outstanding because the applicant has not yet provided the landscaping and ecology measures which were required within the first growing season following commencement of development. Although the written submission for Condition 12 has been approved for the whole development site (the houses and the flats and the southern boundary), the post-construction issues raise warrant further consideration of the issue, and it is considered prudent to ensure Conditions 12 and 13 are re-considered and implemented effectively and at the earliest opportunity to provide successful planting and protection. Trees and the hedges will also need protecting during the works and any damaged planting will need to be replaced (as per condition 14).

Condition 15 also requires a scheme for the ongoing management and maintenance of the landscaping to be submitted and approved. A proposal has been submitted, but this will need to be amended to suite the new layout and amended landscape features. It is considered necessary for new conditions to be used to ensure the landscape planting plans and maintenance details are re-provided and agreed to reflect the changes in the site's layout, and to still require details of the southern boundary tree planting and provision.

The original trees along the southern boundary with Rudham Stile Lane and elsewhere in the site will remain protected under the previous Condition 16, this will be re-imposed to prevent any trees being "topped, lopped, uprooted, felled or in any other way destroyed" within 10 years of the date of the permission. All outstanding landscaping matters previously required by conditions shall be amended and re-imposed on any new permission.

#### ***Boundaries -***

Boundary treatments / fencing within the development and around all the site perimeters still remain to be agreed under Conditions 17 and 18 of the original permission PF/15/1167. Details have been lodged under application CDE/15/1167 but not determined. It is considered necessary for the submitted proposals to be revised because of the changes in circumstances and the on-site conditions which have become apparent during the gradual construction of the site. As such it is considered necessary and reasonable for the condition to be re-imposed on any new permission.

As part of the boundary details, Condition 18 required inclusion of small mammal access, and in practice this would need to avoid concrete gravel boards and provide hedgehog holes of a minimum 130x130mm dimension of at least 6m intervals.

Despite the approved Construction Traffic Management Plan stating that all construction vehicle access would come past the medical centre, a significant hole has been created in the hedge along Thorpland Road where construction vehicles have been accessing the site. The site foreman suggested this is intended to be restored and will need to be rectified by a new condition requiring a hedge planting detail and restoration scheme along Thorpland Road, along with site levels being confirmed outside the west elevation of the 66 flats.

#### **6) Drainage and flooding:**

Condition 7 of the existing permission requires details to be agreed for the surface water drainage scheme and its maintenance. There are no requirements for a foul water scheme to be agreed by condition because at the time of the last planning application PF/15/1167, Anglian Water confirmed they were content for foul waters to be connected to their system and did not require a condition to finalise details.

The changes proposed by this application will not create any notable additional risk of flooding over and above the previous application; the changes to the larger footprint of the building are likely to be able to be accommodated in a new scheme for surface water disposal – to be agreed by a new condition.

#### ***Surface water -***

The applicant's proposals as submitted and approved under application CDC/15/1167 confirmed the surface water is to be drained into a single collection chamber under gravity, positioned underneath the parking spaces and access road alongside the southern boundary. From here it is to be pumped to the north of the site into the existing Anglian Water surface water system in Trinity Road.

Although this is not the most ideal proposal in respect of following the sustainable drainage hierarchy, the applicant has provided permeability tests and runoff calculations as required by Condition 7, and alongside the results of investigations and drainage reports and surveys undertaken in the adjoining site to the west of Thorpland Road (application PO/17/0680), there is enough evidence available to confirm that this part of the site does not have appropriate drainage for soakaways and so it must be collected and pumped to existing sewers.

Although the details showed there is likely to be some minor surface water flooding in extreme rainfall events, the drainage scheme has proposed finished floor levels of 150mm above the finished external levels where the natural drainage falls towards, and the exceedance would be contained within landscaped spaces.

The minor increases to the building's footprint also require drainage to be amended to suit the layout and provide enough capacity to drain the increased built area. Although the principles are still considered acceptable as agreed within application CDC/15/1167, the condition will need to be re-imposed.

#### ***Foul water –***

Neighbouring residents have been concerned about the foul drainage proposals. Anglian Water has recently confirmed its approval for the foul water from all the 101 houses to be drained into a connection with the existing Anglian Water manhole within the garden of 3 Rudham Stile Lane, which is part of the wider public sewer system continuing south under either 157 or 159 Holt Road and then east along Holt Road. Building Control staff have also given their consent to this proposal.

### **7) Other material considerations:**

- **Housing tenure** - The approved form of housing tenure is not proposed to be amended under this application; it is set out in the Section 106 Agreement which will be duly updated to accommodate this new application, and requires all residents to require this level of housing because they cannot afford entry into other open-market 'housing with care' or care home schemes. There is also a restriction by planning Condition 27 which requires that the 66 'Housing with Care' flats shall only be occupied by people over 55 yrs. If there were ever any proposals for the scheme to be made available for general use or alternative forms of residential accommodation or residential institutions, there would need to be an application made to either vary the use class or the section 106 agreement, or both, which would require a planning application of sorts and associated public consultation.

- **Biodiversity enhancements** – The previous approval requires bird boxes and feeding stations to be provided within the landscaping scheme. These details have been approved under Condition 12 but not yet provided, so a revised condition will be re-imposed.
- **Renewable energy** – The usual Core Strategy Policy EN 6 requirement for at least 10% of the site's energy demands to be met by renewable energy was not required in the original permission and is not considered reasonable nor possible to impose such a condition now.
- **Archaeology** – the LPA has not been made aware of any findings of note within the site construction to date, but the requirement to allow access to archaeologists will need to remain in place for the construction of the flats as required by Condition 24 of PF/15/1167.
- **Contamination** – there were no requirements imposed by planning condition originally and it would not be reasonable to suggest including any now.
- **Fire hydrants** - The previous permission requires two fire hydrants for the whole development, which have been agreed and have been installed on site already. No further provision is required for these amendments.
- **External lighting** – Neighbouring residents are concerned for the possible light pollution caused by any lighting within the development. This has been reduced by including a close board fence along the southern border, but the use of streetlights remains a potential source of disturbance. The precise details will need to be agreed by conditions (as was required under Condition 5 of the previous permission); any lighting would need to be low-level, directed away from homes and trees, and 'bat-friendly'. It is suggested than 4m tall columns of low-intensity lighting to be activated by motion-sensors would be appropriate.

### **8) Planning obligations and conditions:**

The original permission includes a Section 106 Agreement which requires pro-rata financial contributions from each dwelling for supporting library services and towards mitigating the impacts of development on European designated wildlife sites. The affordable housing requirements are also set out in the agreement, requiring all dwellings to be used as 'general needs' affordable housing, and requiring the Housing with Care dwellings to be operated as such.

The new permission needs to be subject to the same legal obligations on an amended permission and so any resolution to approve this application should be subject to completion of a new Section 106 A Deed of Variation Agreement and appropriately amended planning conditions from the original permission.

It is considered necessary to amend the conditions of the original permission as below:

<b>Existing condition on PF/15/1167</b>	<b>Recommendation</b>	<b>Reason for change.</b>
1. Commencement of development	Remove	Scheme is already commenced.
2. Compliance with prescribed site-wide land levels in plan 43-P.002 of 01.12.15.	Amend – require a new plan with levels to be agreed	Site levels will have changed by removing the road and changing the building footprint.

Existing condition on PF/15/1167	Recommendation	Reason for change.
3. Retaining wall & works details TBC.	Remove	No longer a retaining wall in scheme.
4. Plant & machinery & extract detail TBC.	Retain / re-impose.	
5. Any external lighting details TBC.	Retain / re-impose.	
6. 'Fat traps' on flats' café details TBC.	Retain / re-impose.	
7. Surface water drainage scheme.	Amend.	Details need to reflect the new design.
8. Design of bins, sheds, greenhouses.	Amend.	To reflect the amended siting of bins.
9. Cycle stands and shelters TBC.	Retain / re-impose.	
10. Downpipes & foul downpipes TBC.	Amend.	Details need to reflect the new design.
11. Juliette balconies.	Amend.	Require use as per CDD/15/1167.
12. Soft landscaping scheme TBC.	Amend.	Details need to reflect the new design.
13. Southern boundary planting required.	Amend.	To be provided prior to flat's occupation.
14. Tree & shrub replacements for 10 years.	Retain / re-impose.	
15. 10 year landscape management plan.	Retain / re-impose.	
16. Protect & retain existing trees for 10 years	Retain / re-impose.	
17. Fencing throughout scheme TBC.	Amend.	To reflect new designs and just the flats.
18. Provide small mammal gaps in fences.	Retain / re-impose.	
19. Building materials.	Amend.	Require use as per CDA/15/1167.
20. No enlargement of the wheelchair bungalow to be allowed under PD rights.	Retain / re-impose.	
21. Two fire hydrants to be provided.	Amend to retain.	Hydrants already approved & installed.
22. All accesses, turning area etc needed.	Retain / re-impose.	
23. Construction traffic management plan.	Retain / re-impose.	And reiterate working & delivery hours.
24. Work to allow access to archaeologist.	Retain / re-impose.	
25. n/a – there was no condition 25 originally.		
26. Scheme to follow the approved plans.	Amend.	To reflect relevant previous plans and the new plans as amended through this scheme and the various conditions.
27. Restrictions on occupation of the 66 'Extra Care / Housing with Care' flats to be restricted to people over 55 years & partners.	Retain / re-impose.	
NEW – scheme for the southern and western hedges to be restored and planted with a woodland belt provided along Thorpland Road.	New	To address the recently-created gap.

### **9) Other Non-Material Issues:**

Application advertisement – The necessary legal procedures have been followed. The application has been advertised within the public highway on Holt Road, Rudham Stile Lane, Thorpland Road, Trinity Road, and on the north side of the site, using 7 site notices on three separate occasions. The notices were visible and the dates were clearly readable using long-lasting ink on bright yellow paper as is standard procedure with all applications, and the notices are known to withstand at least the 3-week consultation periods. The application was also advertised in the press and copies have been available for examination via the Town Council.

Existing housing tenure - There has been concern about the use of 'to-let' signs on properties within the eastern parts of the site which are required to be "general needs affordable housing"; the concern was that the tenure may have been changed to market housing for rent.

Enquiries confirmed the 'to let' signs are provided by Cotman Housing Association (HA) who manage the affordable housing on site and are used as part of raising awareness that homes are available in the area; if people contact Cotman HA they are advised whether they would be eligible in principle to gain access to these properties.

Ultimately the properties will only be let to people on the NNDC Housing List for people in housing needs, in accordance with the prevailing permission and section 106 agreement and the NNDC Housing team will need to monitor the situation to ensure this remains the case.

Off-site utility connections - The purchase and use of a private dwelling (3 Rudham Stile Lane) for connecting into domestic sewage, gas or other utility connections is not a Planning concern unless works are in conflict with planning conditions. Providing connections across / within a private road is a civil matter between owners, developers and utility companies.

## **RECOMMENDATION:**

Notwithstanding the fact that the existing extant permission is itself a departure from the development plan employment site allocation, the amendments in the development proposed are considered to be in accordance with the requirements of the Development Plan and are consistent with the provisions of the implemented and extant permission for the site, and so it is considered that the application should be approved. There are no material considerations that indicate the application should be determined otherwise.

### **Part 1:**

**It is therefore recommended that the application should be approved subject to:**

**(i) Prior completion of an appropriate Section 106 A Deed of Variation to continue to ensure the development is subject to planning obligations relating to affordable housing, and financial contributions towards Natura 2000 wildlife sites and Fakenham library improvements;**

**(ii) The range of conditions as listed below; and,**

**(iii) Any additional conditions as may be considered necessary by the Head of Planning.**

### **Conditions:**

1. Development to follow a revised list of approved plans and use the materials and Juliette balconies as approved within applications CDA/15/1167 and CDD/15/1167.
2. Occupation of the 66 'Housing with Care' flats to be restricted to people over 55 years and their partners.
3. No enlargement of the wheelchair bungalow to be allowed under Permitted Development.
4. Scheme for site-wide land levels to be agreed, with reference to plan 43-P.002 of 01.12.15, and followed thereafter.
5. Surface water drainage scheme for the flats to be agreed prior to commencement of the flats, with details of maintenance and management.
6. Details of fat traps etc to be agreed prior to construction of the flats.
7. Protect trees during construction and no vehicle access to/from Rudham Stile Lane &



retain existing trees for 10 yrs.

8. Construction shall follow the Construction Traffic Management Plan and the specified construction and delivery hours of 07:30 – 17:00 Monday – Friday and 08:00 – 13:00 Saturdays, with no work on Sundays, or Bank Holidays.

9. To agree the position of downpipes and foul drainage pipes prior to construction of flats.

10. Details of fencing – which shall include small mammal access – to be agreed prior to construction of the flats, and to be provided prior to commencement of flats construction.

11. Construction works shall allow access to archaeologist.

12. Soft landscaping scheme for the Thorpland Road hedge to be agreed – for hedge to be restored and planted with a woodland belt, to be provided prior to flats' occupation.

13. Planting scheme for the southern boundary to be agreed and provided prior to commencement of flats construction.

14. Tree & shrub replacements required over the first 10 years.

15. A 10-year landscape management plan to be agreed and followed.

16. Bins, sheds, greenhouses to be agreed and provided prior to occupation of the flats.

17. Cycle stands and shelters to be agreed and provided prior to occupation of the flats.

18. Car park allocations plan to be agreed prior to occupation of the flats.

19. Any external lighting to be agreed prior to occupation of the flats.

20. Plant & machinery & extract detail to be agreed prior to occupation of the flats.

21. All accesses, turning areas, parking etc to be agreed and provided prior to occupation of the flats.

## **Part 2:**

**That the application be refused if a suitable section 106 agreement is not completed within 3 months of the date of resolution to approve and if, in the opinion of the Head of Planning, there is no realistic prospect of a suitable section 106 agreement being completed within a reasonable timescale.**

- (2) **BLAKENEY - PF/18/0932 - Erection of single storey front extension and two storey rear extension to north facing gable; alterations to rear elevation including enlargement of existing dormer windows and insertion of 2 no. dormers with 1 balcony; raised patio; Fairacre, 72 Morston Road, Blakeney, Holt, NR25 7BE for Mr & Mrs Timmins**

**- Target Date: 12 July 2018 (Extension of time until 08 January 2019)**

Case Officer: Miss J Hodgkin

Full Planning Permission

### RELEVANT CONSTRAINTS

LDF - Settlement Boundary

LDF - Residential Area

A Road

Development within 60m of Class A road

Area of Outstanding Natural Beauty

Undeveloped Coast

RELEVANT PLANNING HISTORY for Fairacre, 72 Morston Road, Blakeney NR25 7BE:

PLA/19981528 PF

72 Morston Road, Blakeney, Holt, NR25 7BE

Conversion and extension of existing garage to provide additional living accommodation and erection of double garage/ garden room

Approved: 16/03/1999

PLA/19970546 PF  
72 Morston Road, Blakeney  
Erection of first floor extension over existing garage  
Approved: 06/06/1997

#### THE APPLICATION

This application seeks to erect a single storey front extension to provide a second entrance door and entrance hall. At the rear elevation it is proposed to build a gable extension and to increase the level of the existing glazing by adding additional panels to the ground floor level, enlarging the existing first floor dormer windows and adding a further two dormers with one allowing access onto a balcony. Additionally a raised patio with guarding is being applied for.

#### REASONS FOR REFERRAL TO COMMITTEE

At the request of Cllr K Ward having regard to amount of glazing proposed resulting in light pollution and the timber cladding which is considered to be undesirable. The feedback on the Draft Blakeney Conservation Area Appraisal (CAA) highlights light pollution from inappropriate development blighting the area's dark sky status and the use of expanses of timber as not being in keeping with the local character. This application has both of these features in a dwelling very visible from the coast path.

Although aware the site is currently not within the draft Conservation Area Appraisal, Cllr K Ward refers to the recommendation from consultees which is to extend the Conservation Area boundary to include these properties to avoid inappropriate development destroying the character of the Glaven Villages.

#### PARISH/TOWN COUNCIL

Blakeney Parish Council - No response.

#### CONSULTATIONS

Norfolk Coast Partnership (comments on the revised design):

The amount of glazing remains a concern and consider the scale to be quite intrusive. Concern that buildings of this nature impact the AONB's dark skies which is a special feature. Ask if there is potential for the guarding or a few of the panels in the north elevation to be omitted, and if there is also scope to look at a less reflective glass to decrease visual disturbance.

Landscape Officer:

In light of the amended design, the Landscape Section are satisfied that the impact of the development on the AONB will be reduced to an acceptable level providing to additional planting is undertaken on the northern boundary of the site to help break up the impact of the glazing when viewed from the Coastal Path. Subject to appropriate landscaping and ecological conditions being imposed on the development, the Landscape Section does not object to the application.

#### REPRESENTATIONS

To date, one representation has been received, objecting to the original proposal by raising the following concerns:

- The site is in a very sensitive location within the Norfolk Coast AONB and highly visible from a National Trail and important Designated Sites.
- The use of alien materials, large glazed panels, introduction of balconies and raised platforms would adversely impact upon the setting and appreciation of the AONB, SSSI areas and the Blakeney Conservation Area and would not enhance the character or distinctiveness of the area.

Following receipt of the revised plans, the objector has made the following comments:

*I welcome the changes to the proposed scheme which address my principal concerns but would suggest that you should again consult with NNDC Landscape, Conservation & Design Officers for their opinion on the revised scheme to inform the decision. . . I would trust that if Approved we will not see a series of applications for changes and modifications which move the design back towards that which was originally proposed or introduce new features which do not preserve or enhance the AONB and/or Blakeney Conservation Area.*

#### HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development may raise issues relevant to Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights, and the general interest of the public, approval of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

#### CRIME AND DISORDER ACT 1998 - SECTION 17

The application raises no significant crime and disorder issues.

#### POLICIES

North Norfolk Core Strategy (Adopted September 2008):

SS 1 - Spatial Strategy for North Norfolk

EN 1 - Norfolk Coast Area of Outstanding Natural Beauty and The Broads

EN 2 - Protection and enhancement of landscape and settlement character

EN 3 - Undeveloped Coast

EN 4 - Design

EN 9 - Biodiversity and geology

Design Guide (Supplementary Planning Document)

#### NATIONAL PLANNING POLICY FRAMEWORK

Section 12 - Achieving well-designed places

Section 15 - Conserving and enhancing the natural environment

#### MAIN ISSUES FOR CONSIDERATION

- 1) Principle of Development
- 2) Design and Appearance
- 3) Impact on Residential Amenity
- 4) Landscape and Ecological Impacts

## APPRAISAL

### 1. Principle of Development

The application site lies within a defined residential area of Blakeney, defined as a service village under Policy SS 1, where extensions and alterations to existing dwellings are acceptable in principle subject to compliance with all relevant Core Strategy policies. The site lies beyond the existing Blakeney Conservation Area. However, the conservation area is currently under review and has been progressed to a draft consultation stage under which the site may then be included in the revised Conservation Area. A Draft Conservation Area Appraisal should be taken as a material planning consideration which carries only very limited weight within the decision making process.

### 2. Design and Appearance

The front extension would infill an exterior recess of the existing dwelling but would be slightly set back from the front elevation. The proposal is considered to be of a minor scale and would be sympathetic to the existing dwelling in terms of its design and materials.

The raised patio area and guarding proposed is considered acceptable in terms of design and would not be significantly visible within the setting owing to the screening provided by the existing planting along the rear and side boundaries of the site and the dwelling's distance from the Coastal Path, sharing a separation distance of approximately 208m.

Initial proposals were considered to be incongruous in terms of their relationship to the existing dwelling and the surrounding landscape, by virtue of the use of galvanized cladding and inappropriate design features. The level of glazing and the development's overall modern appearance would have unacceptably eroded the character of the existing property.

Several iterations of amended plans have been received. The final revision showing the use of more sympathetic materials (to include brick to match the existing and larch cladding instead of zinc), the existing and new dormers are to be enlarged by a lesser extent with the style of the original dormers being retained and, lastly, an overall reduction in the level of glazing compared to that originally proposed. The enlargement of the existing dormer windows and the additional dormers to be constructed are not considered to lead to a level of glazing which would adversely impact the character and appearance of the existing dwelling or the setting.

Although the two-storey gable extension proposed is not considered ideal in terms of its form and modern appearance, the scale of the proposal and the revised materials are deemed acceptable. It is also noted that the extension may qualify as permitted development if it did not feature the timber cladding. Local Member concern is noted in terms of the amount of larch cladding proposed to the gable projection, however officers do not consider that this relatively small element will have a significantly adverse visual impact on the character of the property or the surrounding landscape. Additionally, it is noted that timber cladding is a feature present in local properties, as such it is considered the cladding proposed would be not an incongruous or unacceptable feature within the setting of the Conservation Area.

Whilst the overall amount of glazing proposed is may not be regarded by some as ideal, it is considered that a refusal of the scheme could not be reasonably sustained given the existing amount of glazing on the existing dwelling and the intervening boundary features of the site which effectively mitigate the proposal's visual impact on the setting. The amendments submitted are considered to reduce proposal's impact on the property and the setting to an acceptable level and therefore, on balance, the proposal is deemed to meet the requirements of Policy EN 4 of the Core Strategy.

### 3. Residential amenity

It is considered the scheme would not have significant material impacts on the privacy of the adjacent neighbouring residents of Marshbanks (to the east) as the new glazing and Juliet balcony to the gable extension face north, away from the rear of 'Marshbanks', and would not facilitate direct overlooking of the adjacent garden. Additionally, the existing vegetation along the shared boundary affords a high level of privacy between the two properties at ground floor level.

The proposed first floor balcony would be set back from and be effectively screened by the existing rear gable element of the dwelling. This protects the privacy of the neighbouring occupants of 'Marshbanks'.

Given the limited depth of the proposed two-storey gable projection and the existing relationship between the two properties in terms of their positioning and separation distance, it is not considered that the proposal would cause a significant level of overshadowing to the adjacent property 'Marshbanks'.

It is therefore concluded that the scheme would not have a significant detrimental impact on the residential amenity of neighbouring occupants either through loss of privacy or overshadowing and the proposals are therefore considered to be in accordance with the requirements of Policy EN4 of the Core Strategy.

### 4. Landscape and Ecological Impacts

Following the receipt of amended plans and changes to the design of the development, the Landscape Section are satisfied that the impact of the development on the AONB will be reduced to an acceptable level subject to some additional planting undertaken on the northern boundary of the site. The planting of appropriate species (with height and with biodiversity benefits) on the northern boundary would help break up any impact of the glazing when viewed from the coast path. The existing and proposed vegetation on the northern boundary will be maintained at a height of no less than 3m from existing ground level. Subject to the appropriate Landscaping Condition being implemented, the proposed development is considered to have a suitably mitigated and limited impact on AONB in accordance with Core Strategy Policy EN 1 and relevant section of the NPPF.

The majority of glazing proposed involves modifying the existing openings. The patio and the small increase in glazing to the ground floor level of the dwelling would not be significantly visible within the wider setting, and specifically from the Coastal path due to the existing planting along the boundaries of the site. Considering the existing level of glazing on the rear elevation, the increase of glazing at both first floor and ground levels is not considered to be of such a significant amount to warrant refusal of the application or to have a significantly detrimental impact on the open coastal character of the setting in accordance with Policy EN 3.

A Protected Species Survey prepared by Wild Frontier Ecology was subsequently submitted with the application, this did not identify the presence of bats or nesting birds within the building. Officers consider that the development is will not result in an offence to protected species and is compliant with Policy EN9, however given the dynamic nature of protected species and the likelihood that they may be present in the area, it is recommended that a condition is attached to any permission given requiring the development to be carried out in accordance with the mitigation and enhancement recommendations specified in the submitted ecological report (sections 7 and 8).

Providing the appropriate Landscaping and Ecological Conditions are imposed on any permission granted, the proposed development is considered to accord with Policies EN1, EN3 and EN9 of the Core Strategy and Section 15 of the National Planning Policy Framework.

#### Conclusion

The application is considered to have a positive planning balance and to be acceptable in terms of its design and scale, and is not considered to result in a significant detrimental visual impact to the setting or any significant impact to the amenity of neighbouring properties. Therefore the proposal is considered to be in accordance with the relevant Development Plan Policies and is recommended for approval.

**RECOMMENDATION:** Approve, subject to the following conditions, and any others as deemed necessary by the Head of Planning:

1. Time limit
2. In accordance with submitted plans
3. Materials as submitted
4. Landscaping scheme required prior to commencement of the development
5. Development carried out in accordance with the mitigation and enhancement recommendations of the Ecological Report.

- (3) **CROMER - PF/18/2181 - Installation of photovoltaic panels to roof of council offices; North Norfolk District Council, Holt Road, Cromer, NR27 9EN for North Norfolk District Council**

#### Minor Development

- Target Date: 21 January 2019

Case Officer: Mr D Watson

Full Planning Permission

#### RELEVANT SITE CONSTRAINTS

- A Road
- Development within 60m of Class A road
- Tree Works
- LDF - Employment Area
- LDF Tourism Asset Zone
- LDF - Approach Routes
- LDF - Principal Routes
- County Wildlife Site
- Contaminated Land
- Area of Outstanding Natural Beauty
- LDF - Settlement Boundary

#### RELEVANT PLANNING HISTORY

PLA/19890025: NEW CIVIC ACCOMMODATION FOR NORTH NORFOLK DISTRICT COUNCIL. Approved 24/02/1989

PLA/19882205: NEW CIVIC ACCOMMODATION FOR NORTH NORFOLK DISTRICT COUNCIL. Approved 15/12/1988

## THE APPLICATION

It is proposed to install photovoltaic (PV) panels on the south, southeast and southwest facing roof slopes of the council offices, which face the access road from Holt Road and the main car parking areas. The proposals consist of four rows of panels on each roof, sitting above the existing lower level roof lights and approximately 0.6m set down from the ridge line. The proposed PV panels would be positioned around higher level roof lights and extract vents. Each panel is 1650mm x 991mm with a thickness of 35mm. With fixings, the overall projection above the existing roof tiles would be 100mm. The proposals envisage no more than 390 panels in total. The panels proposed are black with a slight glassy /metallic sheen to the surface. A sample has been provided which will be available for members of the committee to view at the meeting.

## REASONS FOR REFERRAL TO COMMITTEE

As the application is submitted on behalf of North Norfolk District Council and objections have been received.

## PARISH/TOWN COUNCIL

Cromer Town Council: strongly support the application.

## REPRESENTATIONS

One comment has been received from a resident of Blakeney who strongly objects on the grounds that :

*The proposal would have a harmful impact on the Area of Outstanding Natural Beauty (AONB). The Council Office is a significant building in the scene when travelling east along the A148 and the descent into the town and the views of the sea and coast. The majority of the high roof would be smothered in dark solar panels in an ill-considered and rushed attempt to make financial gain from soon to be abolished Government subsidies for feed in tariffs. The objector also considers that the Landscape and Visual Impact Assessment (LVIA) is unprofessional and misrepresentative as the photos and images are totally out of focus, distant views, taken in poor light conditions and the viewpoints selected are ones from where the site is not visible. It is considered that the LVIA does not truly reflect the visual impact on the receptors of which many are classified to be of high sensitivity.*

Any further representations received will be reported verbally at the Development Committee meeting.

## CONSULTATIONS

Environmental Health: no objection.

Landscape Officer: no objection.

Norfolk Coast Partnership: comment that :

*... generally support the use of renewable energy to provide energy to large community buildings as this is a sustainable approach to development. However, the Landscape and Visual Appraisal does not adequately provide enough information to assess the potential visual impacts on the AONB. The images are dark and there needs to be more viewpoints included. As this would be a large area of PV panels within the AONB boundary, they would*

want assurance that this will not cause adverse visual impact.

The Partnership refer to paragraph 172 of National Planning Policy Framework (NPPF) which states 'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues'. Therefore, they cannot support the application until higher quality photo-montages and increased viewpoints are provided.

#### HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development may raise issues relevant to

Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights, and the general interest of the public, approval of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

#### CRIME AND DISORDER ACT 1998 - SECTION 17

The application raises no significant crime and disorder issues.

#### POLICIES

North Norfolk Core Strategy (Adopted September 2008):

Policy SS 1: Spatial Strategy for North Norfolk (*specifies the settlement hierarchy and distribution of development in the District*).

Policy EN 7: Renewable energy (*specifies criteria for renewable energy proposals*).

Policy EN 1: Norfolk Coast Area of Outstanding Natural Beauty and The Broads (*prevents developments which would be significantly detrimental to the areas and their setting*).

Policy EN 2: Protection and enhancement of landscape and settlement character (*specifies criteria that proposals should have regard to, including the Landscape Character Assessment*).

Policy EN 4: Design (*specifies criteria that proposals should have regard to, including the North Norfolk Design Guide and sustainable construction*).

Policy EN 8: Protecting and enhancing the historic environment (*prevents insensitive development and specifies requirements relating to designated assets and other valuable buildings*).

Policy EN 9: Biodiversity and geology (*requires no adverse impact on designated nature conservation sites*).

Policy CT 5: The transport impact on new development (*specifies criteria to ensure reduction of need to travel and promotion of sustainable forms of transport*).

National Planning Policy Framework (2018)

Section 2 – Achieving sustainable development

Section 4 – Decision-making

Section 14 - Meeting the challenge of climate change, flooding and coastal change

Section 15 - Conserving and enhancing the natural environment

#### MAIN ISSUES FOR CONSIDERATION

- Whether the proposed development is acceptable in principle
- The effect of the proposed development surrounding landscape, townscape and historical features/areas



- The effect of the proposed development residential amenity
- The effect of the proposed development on highway safety, designated nature conservation areas and biodiversity

## APPRAISAL

The Council offices are within the designated settlement boundary for Cromer at its southwest edge. Cromer is a Principal Settlement under policy SS 1. They are also within a designated Employment Area and the Norfolk Coast Area of Outstanding Natural Beauty. Part of the land to the east of the site boundary within the Cromer Hall Estate is a County Wildlife site. The closest designated heritage assets are Cromer Hall (grade II\*) and the Felbrigg Hall estate which is a registered park and garden (grade II\*).

The roof of the building subject of the application faces the access and main car parking areas. It comprises three sections - the central south facing section above the main entrance, with two angled wings off it facing southeast and southwest. Within the roofs there are rows of roof lights at a low level and some extractors/flues. The roof is covered in terracotta orange pantiles which have weathered since installation.

### Principle

Policy EN 7 supports renewable energy proposals and indicates proposals for the integration of renewable technology on existing structures will be permitted where individually, or cumulatively, there are no significant effects on:

- the surrounding landscape, townscape and historical features/areas;
- residential amenity;
- specific highway safety, designated nature conservation or biodiversity considerations.

Subject to compliance with these criteria and other relevant policies the proposal is considered to be acceptable in principle.

### Effect on the surrounding landscape, townscape and historical features/areas

The Council offices are in an elevated position within the AONB and are therefore in a sensitive location. The areas of roof where the installation is proposed are carefully selected. Views to these areas are not widely available. The installation will be visible from two public vantage points. These are:

i) from the A148 and path along its north side on the approach to Cromer travelling north-eastwards. The top part of the southwest roof slope comes into view at approximately the point where the A148 crosses the railway. Trees along the south east side of the lay-by restrict views of the lower part depending on the angle of view and the distance from the building. In this view the impact is limited as the panels would only be glimpsed briefly by road users travelling towards Cromer. As the building is approached the view towards the town are framed by trees and the building is seen in the context of other nearby buildings within the employment area and the Lidl store. It is not until after the building is passed that more extensive views across the town appear as road falls towards it. It is therefore considered that the effect on the landscape and townscape would therefore be very limited.

ii) from a point on the east side of the B1436 Felbrigg Road, about 150 northeast of the entrance to Felbrigg Hall. This is a glimpsed view when driving on this road towards its junction with the A148 and is one which may be imperceptible to many. In this view more of the roof is visible, being framed by predominantly evergreen trees in nearby woodland. The ridge just sits just below the horizon line with the sea providing a dark backdrop. The

installation of the darker panels would potentially make the roof less visible, merging it with the darker trees.

Because of intervening landscape features such as woodland and landform, the building cannot be seen from closest Public Rights of Way. The Weavers Way footpath that runs to the southeast or the footpath around Roundabout Hill from East Runton to the northwest. Whilst the building itself can be seen from some higher points such as Ingleborough Hill (between East and West Runton), the roof slopes on which the panels would be located would not be readily visible due to their orientation in relation to the view point. Any impact would be further diminished by distance - approximately 2 kilometres.

For the reasons stated it is considered the proposals would not have a significant impact on the special features and qualities of the AONB with any impacts being extremely localised. It does not conflict with the requirements of paragraph 172 of the NPPF which states that *'great weight should be given to conserving or enhancing landscape beauty in... Areas of Outstanding Natural Beauty, which have the highest status of protection.'* The black panels may in fact have a positive impact on the landscape character by diminishing the impact of the existing terracotta orange tiles that currently cover the roof. Those tiles are considered to have weathered, very little over time and present a contrasting element to the background of the nearby woodland.

The consultee comments received in respect of the LVIA accompanying the application are noted, but this has not prevented full and proper assessment of the proposals by officers. In making this determination then officers are content that the LVIA has complied with relevant guidance "Guidelines for Landscape and Visual Impact Assessment (Third Edition 2013). The proposed development is therefore considered to be acceptable in terms of policies EN 1 and EN 2

Cromer Hall is about 470m to the north east of the building. Intervening woodland within the Cromer Hall Estate means the building cannot be seen and as such there would be no harmful effect on its setting. Similarly, the separation distance (about 1100m) to the closest edge of the Felbrigg Hall Estate and the intervening landscape features is such that there would be no material impacts on the registered park and garden. The proposal therefore complies with policy EN 8.

#### Effect on residential amenity

There are no dwellings close to the site and as such there would be no impacts in this respect. The proposal therefore also complies with policy EN 4.

#### Effect on highway safety, designated nature conservation or biodiversity considerations.

As the proposed panels would not face the public highway and would not result in high levels of glare that could otherwise be distracting to road users, the proposed development is considered to be acceptable in this respect and complies with policy CT 5.

As the proposed panels are being fitted on the roof, this does not involve removal of the roof covering and as such there would be no harmful impacts on protected species that may be present. The proposal would have no effect on the adjacent County Wildlife site. The proposal is considered to be in accordance with policy EN 9.

#### **Conclusion**

The proposed development is considered to comply with relevant Core Strategy policies for the reasons stated. It would result in very little harm to the special qualities of the AONB.

That very limited harm needs to be weighed against the fact that proposed panels would reduce the Council's use of grid supplied power by around 40%. As the Council is a public body the gains be made from the Feed in Tariff and payment which would be received from the estimated 50% of the electricity generated at times when the office is closed exported to the grid, are also relevant in this case. Paragraph 154 of the NPPF states that when determining planning applications for renewable and low carbon development local planning authorities should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions and approve the application if the impacts are (or can be made) acceptable. On this basis officers consider that the proposals have a positive planning balance, which significantly outweighs the very limited harms detailed in the LVIA, other supporting documents and in representation made to the proposals.

### **RECOMMENDATION:**

Grant planning permission subject to conditions relating to:

- Time limit for implementation
- Development to be carried out in accordance with approved plans and details.

Final details of conditions and any additional conditions deemed to be necessary to be delegated to the Head of Planning.

- (4) **DILHAM - PF/18/0606 - Change of use from B1 light industrial to Sui Generis (car repairs) & erection of compound fence (part retrospective); Granary Works, Honing Road, Dilham, North Walsham, NR28 9PR for Mr Purkiss**

**- Target Date: 27 November 2018**

Case Officer: Mr C Reuben  
Full Planning Permission

### CONSTRAINTS

LDF Tourism Asset Zone  
Enforcement Enquiry  
LDF - Countryside  
C Road

RELEVANT PLANNING HISTORY for Granary Works, Honing Road, Dilham, NORTH WALSHAM, NR28 9PR

PLA/20051974 PF  
POTATO STORE NEW BARN, HONING ROAD, DILHAM  
CHANGE OF USE OF BUILDING FROM AGRICULTURAL TO B1 (LIGHT INDUSTRIAL)  
Approved 13/02/2006

### THE APPLICATION

The application proposes the change of use of an existing building from B1 (light industrial use to car repairs (Sui Generis use). The car repairs business started operating from the site in February 2018 and as such, the application is retrospective. The building consists of a part brick/part metal clad structure measuring approximately 22mx27m. It sits within a sizeable site with a gravelled parking/turning area to the north (front) of the building, storage space alongside the east elevation, a roadside hedge along the eastern boundary and landscaping to the north-west and alongside the western and southern elevations. The site is

served by a single shared access point off Honing Road. Six residential properties lie immediately to the south of the building and are served by the same access.

A decision on the application was deferred at the meeting of the previous Development Committee (held on 29 November 2018) for a site visit, which subsequently took place on 20 December 2018.

## REASONS FOR REFERRAL TO COMMITTEE

At the request of Cllr L Walker citing matters of compliance with Policy SS 2, adherence to existing conditions, neighbouring residential amenity and local interest.

## PARISH COUNCIL

Dilham Parish Council - Objection. Concerns in regards to the hours of use and noise. A car repairs business is not appropriate for this site as it is within a residential area. The building's prior use was as a potato store, not a granary.

## REPRESENTATIONS

Six objections have been received to the application, raising the following concerns:

- The change of use was implemented without planning permission.
- Existing conditions imposed on the building have not been adhered to, concerned that future considerations will similarly not be adhered to.
- The site has now taken the form of an industrial estate.
- Vehicles and equipment on the site represents an eyesore.
- The site entrance has poor visibility with conflict between garage vehicles and vehicles of local residents. The entrance has been blocked on numerous times by breakdown trucks, customer cars and delivery vehicles. The entrance tarmac has deteriorated and is not maintained.
- The business has moved from a more appropriate site in North Walsham, with two similar businesses already within easy reach of Dilham and as such, is surplus to requirements. Therefore, no justification for the business on the grounds of employment or providing necessary village services.
- Propose use is totally inappropriate and far removed from the original potato store.
- Residents faced with extra long business hours, six days a week, noise and pollution, and will severely impact upon quality of life.
- No right of access for business to use residential drive.
- Pollution may affect the natural wildlife environment.
- Health and safety concerns to due to stored waste and scrap cars.
- Increase risk to pedestrians as a result of increased vehicular use, and increased vehicular traffic through the village.
- Dilham has a peaceful reputation and attracts visitors due to river access, a traditional pub and scenery. Proposed development will have a detrimental impact on this.
- Residents have been miss-led as to the intentions regarding the use of the building since the purchase of the adjacent residential properties, as demonstrated by non-compliance with conditions and the continual 'creeping use' of the building.
- Concern in regards to required highway conditions and disagreement with Highway Officer's/Landscape Officer's conclusions.

## CONSULTATIONS

Norfolk County Council (Highway - Broadland) - No objection. Commented that the proposed use would have sustainability benefit in reducing the need to travel to other car repair workshops, though also question the ability of the rural road network in regard to the possible resultant intensification in use. However, subject to conditions requiring widening of the existing access, improved visibility splays and provision of the on-site parking/turning areas, the proposed use is considered to be acceptable.

Environmental Health - In receipt of formal complaints from local residents in regards to noise and odour (under investigation). Although former B1 use may preclude an objection to Sui Generis (car repairs) use, the applicant has requested to increase the intensity in use of the site, which may lead to further complaints. If committee are mindful to grant permission, a number of conditions are strongly recommended, to include:

- personal consent to the current occupier only;
- insulation to be installed and maintained as per previously agreed details;
- no repairing of vehicles or storage of scrap vehicles externally, no use of plant/equipment/machinery or vehicles (except for access and egress) externally, and only allow the external storage of waste in appropriate receptacles;
- no cleaning/washing of vehicles externally;
- restricting opening hours to between 08:30 and 17:30 Monday-Friday, with no opening at weekends or on bank holidays
- further details of waste storage/disposal to be submitted;
- keeping windows/doors closed during hours of working (except to allow for access and for movement of equipment
- no paint spraying;
- details of any future required ventilation/extraction/air conditioning/refrigeration to be submitted and approved; and
- details of any future external lighting to be submitted.

Landscape Officer - No objection.

## HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development may raise issues relevant to Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights, and the general interest of the public, refusal of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

## CRIME AND DISORDER ACT 1998 - SECTION 17

The application raises no significant crime and disorder issues.

## POLICIES

North Norfolk Core Strategy (Adopted September 2008):

SS 1: Spatial Strategy for North Norfolk

SS 2: Development in the Countryside

SS 5: Economy

EN 2: Protection and enhancement of landscape and settlement character

EN 4: Design

EN 13: Pollution and hazard prevention and minimisation

EC 2: The re-use of buildings in the Countryside

CT 5: The transport impact of new development  
CT 6: Parking provision

National Planning Policy Framework (NPPF):

Section 2 – Achieving sustainable development  
Section 6 – Building a strong, competitive economy  
Section 12 - Achieving well-designed places  
Section 15 - Conserving and enhancing the natural environment

MAIN ISSUES FOR CONSIDERATION

Principle  
Design  
Residential amenity  
Highway impact  
Landscape impact  
Environmental impact

APPRAISAL

Principle (Policies SS 2, EC 2 and NPPF Para's 83(a) and 84):

The site in question lies within the designated Countryside policy area of North Norfolk, as defined under Policy SS 2 of the adopted North Norfolk Core Strategy. Within this area, specific types of development are acceptable but are limited to those which specifically require a rural location and are listed in the policy. One such accepted use is the re-use of an existing building for economic use, subject to compliance with the criteria set out in associated Policy EC 2. However, the use must still require a rural location.

The existing building was granted consent in 2005 under application ref: PF/05/1974 for its change of use from agricultural use (a potato store) to B1 use (a steel fabrication business). Acceptance of that application was based upon adopted Local Plan policy at the time (pre-dating the now adopted North Norfolk Core Strategy) with a strict set of conditions imposed in relation to, in particular, noise mitigation, taking account of the close proximity of the building to neighbouring properties to the south.

Key to determination of this current application is whether the proposed car repair business (Sui Generis) is acceptable in principle in the Countryside, in particular, whether it truly requires a rural location as required by Policy SS 2. Although associated Policy EC 2 of the Core Strategy does allow the re-use of rural buildings for economic uses, these uses must be 'appropriate in scale and nature to the location' and '...in accordance with other policies to protect...amenity'. The policy approach set out in policy EC 2 is in broad conformity with paragraph 83(a) of the National Planning Policy Framework which supports the 'sustainable' re-use of rural buildings for economic uses. However, this is caveated by paragraph 84 of the NPPF which states that whilst sites in rural areas may have to be found for local business needs, such development should be '...sensitive to its surroundings...'.

It is clear that the car repairs business is significant, and certainly a larger operation than the permitted B1 (light industrial) use, noting the size of the existing building and the number of cars parked within the site. This being the case, it is considered that the proposed business represents a much larger business/operation than would normally be expected in the context of an edge of village location (noting that the village itself is small). Such uses are better suited to designated employment land/industrial areas as facilitated by Policy SS 5 of the

Core Strategy, and indeed this is where the use previously took place, being operational from 31 New Road, North Walsham, in close proximity to North Walsham Town Centre. As such, it is considered that the size of the business, coupled with the character of the location, is considered to be disproportionate in terms of its scale and nature to the locality, with no convincing justification provided as to why this particular location is required, nor that there is a local need for such a business.

It is recognised that historically small, localised garages have been, and indeed remain, a feature of some small villages. Although not a material policy consideration in the determination of this application, Core Strategy Policy CT 1 (which ensures the retention of important local facilities and services) provides useful guidance as to the type of services/facilities that are considered to be important to a local community, particularly in order to safeguard their future. Notably, a car repairs business is not listed as one of these key services/facilities. It is further noted that similar businesses already exist in the locality, one located approximately half a mile to the north along Honing Road, and another located just over a mile away on Yarmouth Road in Smallburgh. Indeed, the business located in Smallburgh is smaller and more appropriate in scale to a rural location. As such, this further casts doubt as to the need for an additional car repairs business in the locality, which owing to its size, is likely to draw business from a much wider area.

Consideration has been given to the economic benefits of the proposed use, current employment levels at the facility and the existing lawful B1 use of the building. However, it is not considered that any potential economic benefits of the business, nor the permitted prior use of the building, would outweigh the policy conflicts identified.

On balance, it is considered that the proposed use does not comply with Core Strategy Policy SS2 as the proposed use does not require a rural location. In addition, the proposal fails to comply with Policy EC 2 due to the size of the business not being appropriate in scale and nature to the location. Furthermore, the proposed use does not conform to the aims of NPPF Paragraphs 84.

#### Design (Policy EN 4):

Regarding design, no alterations are proposed to the existing building. The application proposes an additional 1.82m high fence along part of the eastern site boundary, alongside an existing hedge, which would help to screen existing storage areas alongside the eastern side of the building. The proposed fencing does not raise any major design concerns. At present, due to the level of outdoor storage and parking, the site has adopted a more industrial look, however, taking note of the consultation responses received and associated conditions required seeking the limitation of external working and storage, much of the visual impact of the proposed use could be addressed.

On balance, it is considered that in regards to design, the proposals are acceptable against the aims of Policy EN 4 of the Core Strategy.

#### Residential amenity (Policy EN 4):

The nearest residential properties lies directly to the south of the building. A number of objections have been raised in regards to the proposed use, in particular relating to noise and visual impact created by the proposed use. The site has an existing lawful B1 use (previously occupied by a steel fabrication business) and as part of acceptance of that use a number of strict conditions were suggested by the Environmental Protection Officer and imposed in order to control noise from the site, specifically in regards to the installation of acoustic insulation, hours of use, keeping doors closed, amongst other measures.

The proposed use, being for car repairs, raises similar issues, particularly in regards to whether it will result in any additional noise impact upon nearby residents. No formal objection has been raised by the Environmental Protection Officer, though neither are they particularly supportive of the proposed use and at the very least, it is expected that significantly restrictive conditions are again imposed to ensure that the previously installed insulation remains installed and maintained appropriately, and with controls over hours of use, keeping doors closed and preventing external working.

The key consideration regarding compliance with Policy EN 13 is whether, even with such conditions imposed, the proposed use is acceptable given the proximity to nearby residents. In particular, the operation of the site is considered to be, to an extent, materially different to the previous building use, due to the greater level of vehicular movement into/out of the site which itself creates noise, and the likelihood that the garage shutter doors will be frequently opened/closed to allow vehicles/equipment in/out of the building - this again is partially alleviated by the positioning of the current access/doors on the northern side of the site. The suggested conditions will certainly help to minimise the level of noise/disruption and may be sufficient to comply with Policy EN 4, though a level of concern remains, particularly as to the appropriateness of such a facility being located directly adjacent to residential properties. If the use is approved, it is perhaps prudent to ensure an ongoing programme of monitoring to ensure that the conditions are strictly adhered to.

In regards to visual amenity, concern has been raised in regards to the visual impact of parked cars and storage of waste externally which is stated by residents to have resulted in an overly industrial appearance of the site and with a resultant visually unappealing outlook. As stated earlier in regards to design, this matter can be satisfactorily controlled through the imposition of conditions to maintain an acceptable visual appearance.

#### Environmental considerations (Policy EN 13):

As referred to above, the original acceptance of the use of the building for B1 purposes was made under previously adopted policy, and on the basis of strict conditions proposed by the Environmental Protection Officer, given the nature of the proposed business at the time. The matter of noise has been addressed above in relation to amenity and raises similar concerns in regards to compliance with Policy EN 13. The suggested conditions will help to control operations within the site to alleviate any noise impact as much as practically possible.

In terms of the potential for pollution and impact on drainage, much of the external area of the site consists of gravel/soft landscaping and as such, consideration has been made of the potential for chemical/oil leakage given the proposed use and the current storage of vehicles/waste externally. However, subject to conditions to prevent the storage of vehicles externally, (except for staff/customer parking) and the suitable provision of waste receptacles (further details of which would be required) it is considered that this matter could be satisfactorily addressed to comply with Policy EN 13.

#### Landscape impact (Policy EN 2):

The position of the site on the edge of the village and adjacent open countryside requires consideration of any potential landscape impact. The site is at present relatively enclosed within a hedged site boundary. Given that no changes are proposed to the external appearance of the existing building, and subject to limitations on external working/storage, it is not considered that the proposed use will have a significantly detrimental impact upon the appearance of the surrounding landscape and as such, the proposed use would be broadly compliant with Policy EN 2.



### Highways impact (Policies CT 5 and CT 6):

At present, the site is served by a single point of access onto Honing Road. This access is also shared by residents on the adjoining housing development to the south, with the access drive leading around the northern and western boundary of the application site. Much concern has been raised by local residents in regards to the safety of this point of access, highlighting continual conflict between motorists entering and exiting the garage and those using the residential drive. In addition, it is stated that delivery vehicles frequently miss the turn into the garage and have to turn around using the residential drive, with further concerns raised as to the general increase in traffic that may occur through the village as a result of the proposed use.

The Highway Authority have not raised an objection to the proposed change of use, subject to access improvement works, to include the widening of the existing access point and improved visibility splays. Following the public objections received, these concerns have been raised with the Highway Officer, in addition to which an alternative arrangement has been suggested to create a new access into the garage site from Honing Road and close off the existing access to the garage, leaving the existing access solely for the use of the residents. Both this, and the objections have been considered by the Highway Officer who has maintained that the existing access remains suitable for the proposed use subject to improvements, and as such, there remains no objection, whilst further stating that a new access would be unnecessary and thus not supported.

The Highway Authority response does, however, question the suitability of the surrounding highway network to cater for any material intensification in use of the site, though this matter has to be weighed against the access improvements that could be secured. The response further highlights the benefit of a local vehicle repairs business which may reduce the need for rural communities to travel to such facilities. This comment, however, is afforded little weight given that there is no guarantee that local people will use the facility, and further noting the presence of an existing car repair businesses in the locality.

As such, although there are concerns from an officer perspective in regards to the current access arrangements, with no objection from the Highway Officer, it is not considered that refusal based upon the current arrangements can be substantiated under Policy CT 5. Plenty of space exists within the site for both staff and customer parking and as such, the proposed use complies with Policy CT 6.

### Conclusion:

It is considered that the proposed use would not accord with the aims of Core Strategy Policy SS2 which seeks to limit development to that which requires a rural location, nor with Paragraph 84 of the NPPF. In this respect, the applicant has not sufficiently demonstrated why a rural location is necessary for the business, nor that there is a community need for the business. Furthermore, it is not considered that the size of business proposed is appropriate in the context of the rural locality, in what is considered to be an unsustainable location, contrary to Policy EC 2. No convincing mitigating circumstances have been put forward to outweigh the policy conflict identified. In addition to this, the Development Committee will need to consider whether the potential noise impact of the proposed use upon the amenity of nearby residential properties can be sufficiently mitigated through appropriate conditions, in order to comply with Policies EN 4 and EN 13.

**RECOMMENDATION:** REFUSAL for the reasons specified below:

The District Council adopted the North Norfolk Core Strategy on 24 September 2008, and subsequently adopted Policy HO 9 on 23 February 2011, for all planning purposes. The following policy statements are considered relevant to the proposed development:

SS 1 - Spatial Strategy for North Norfolk  
SS 2 - Development in the Countryside  
EC 2 - The re-use of buildings in the Countryside

The National Planning Policy Framework (NPPF) (published 27 March 2012) is also material to the determination of the application. The following sections are considered relevant:

Section 6 – Building a strong, competitive economy (paragraph 84)

In the opinion of the Local Planning Authority the proposal constitutes an unacceptable form of development in the Countryside policy area where development is limited to that which requires a rural location. It is considered that the applicant has failed to demonstrate satisfactorily that there are material considerations to justify a departure from Development Plan policy in this case.

Furthermore, it is not considered that the proposed use is appropriate in scale and nature to the rural location, nor represents the sustainable growth or expansion of a business in a rural area, with no evidence provided of a specific need for such a business in the locality, contrary to Policy EC 2 and Paragraph 84 of the National Planning Policy Framework.

In the event that Members are minded to refuse the application authority is sought for enforcement action to remove the unauthorised uses from the site within 12 months under Section 172 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.

- (5) **DILHAM - PF/18/1928 - Regularisation of first floor extension, two-storey extension, conversion & extension of outbuildings to two-storey annexe, & erection of enclosed covered way (Retrospective - amendments to previously approved application PF/05/1570); Northbrook Cottage, Chapel Road, Dilham, North Walsham, NR28 9PZ for Mr & Mrs Cole**

**Target Date: 31 December 2018**

Case Officer: Mr G Linder  
Householder application

CONSTRAINTS  
Countryside  
Unclassified Road  
Area susceptible to groundwater flooding

RELEVANT PLANNING HISTORY

PLA/19811103 PF  
Northbrook Cottage, Chapel Road, Dilham, Kitchen extension - Approved 26/06/1981

PLA/19820775 PF

Northbrook Cottage, Chapel Road, Dilham, Erection of garage & car port - Approved 25/06/1982

PLA/19840820 PF

Northbrook Cottage, Chapel Road, Dilham, - Bedroom extension - Approved 08/05/1984

PLA/20051570 PF

Northbrook Cottage, Chapel Road, Dilham, Erection of first floor extension, two-storey extension, conversion and extension of outbuilding to two-storey annexe and erection of covered way - Approved 07/11/2005

PF/17/1296 HOU

Woodstock, Chapel Road, Dilham, - Erection of two storey side and rear extensions with first floor balcony and Porch - Approved 03/10/2017

#### THE APPLICATION

Seeks permission to retain a first floor rear extension containing a bedroom and en-suite as built, including elevational changes and pitch of roof. Also the retention of the covered walkway linking the cottage and the previously approved annexe accommodation which has been infilled in order to create and enclosed hallway.

In addition the application seeks permission to erect a fire escape stair and landing which would serve the bedroom contained in the first floor rear extension.

#### REASONS FOR REFERRAL TO COMMITTEE

At the request of Councillor Walker who considers that as the property abuts an SSSI this type of development is contrary to policy. Furthermore, the applicant has not had to carry out a bat survey as nearby properties have had to do. In addition there are environmental issues regarding raw sewage entering nearby waterways.

#### PARISH COUNCIL

Dilham Parish Council – Make the following comments:-

- *Cannot condone either a breach of planning permission or building regulations.*
- *Would ask that suitable disposal of both rain and foul water are taken into consideration.*
- *Would ask that consideration is given to providing off road car parking for Northbrook Cottage.*

#### REPRESENTATIONS

Two letters of objections have been received:-

The owners of The Grange, whose boundary adjoins the site to the west considers that:-

1. *The applicants have encroached on their land by installing an oil tank well within their boundary.*
2. *The proposed fire escape and walkway access will also encroach on their land.*

The owners of Woodstock Cottage, which is attached to Northbrook Cottage to the south have submitted a 10 page objection. In summary, they consider that:-

1. *There are a number of false and misleading statements within the application.*
2. *The extensions which have not been built in accordance with the approved plans have resulted in a substantial development of what was originally a 2 bedroom cottage.*
3. *The rear extension as constructed results in a significant loss of light to our bedroom,*

- hallway and main lounge via a lantern light.
4. *The proposed fire escape and balcony, which is not necessary for a domestic dwelling, will look directly into our glass lantern light and lounge.*
  5. *The use of dark stained timber boarding is inappropriate and gives the extensions a shed like appearance.*
  6. *Use of white PVC window frames and external doors are not in keeping with the rest of the property.*
  7. *The extensions are in close proximity to trees, no tree survey has been submitted as part of the application.*
  8. *A pedestrian access has been created off a very small county lane on a blind bend.*
  9. *There is inadequate on-site parking to serve the needs of the development with current parking on the highway causing danger to other neighbours and road users.*
  10. *The extensions as built do not comply with building regulations.*
  11. *Given the proximity of the property to Smallburgh Fen, an SSSI, it is possible that bats inhabit the site.*
  12. *The increase in the residential capacity of the dwelling, when complete, will place extra strain on the existing septic tank, which regularly overflows and is an environmental hazard.*

In addition one letter of comment has been received from a local farmer which suggests that:-

1. *Consideration be given to providing off road parking for Northbrook Cottage and the additional accommodation as Chapel Road is the main route between two areas of the farm and cars parked at the roadside force farm machinery off the road breaking the edge of the tarmac.*
2. *Such an arrangement would provide better visibility along Chapel Road.*

## CONSULTATIONS

County Council (Highway) – Broadland – *No objections*

Environmental health - Awaiting comments

Landscape Officer – Has the following comments – *Although the site is located within an ecologically sensitive location, adjacent to a woodland and near to a County Wildlife Site and SSSI, the fact that the development works have already been undertaken means that we are unable to assess the impact on protected species or trees as the baseline situation is unknown. Furthermore, as I was not with the Authority in 2005 when the previous permission was granted, it is not possible for me to clarify whether protected species or trees were taken into consideration at that time. In addition, legislation and policy has changed over this intervening time.*

*Although retrospective applications for development are not desirable, particularly from a biodiversity and trees perspective, in this instance I am not in a position to be able to offer any assessment of the impact of the works on protected species or trees that have already been undertaken.*

## HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development may raise issues relevant to

Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights, and the general interest of the public, approval of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

## CRIME AND DISORDER ACT 1998 - SECTION 17

The application raises no significant crime and disorder issues.

## POLICIES

North Norfolk Core Strategy (Adopted September 2008):

Policy SS2 - Countryside

Policy EN4 - Design

Policy HO8 - House extensions and replacement dwellings in the countryside

Policy EN9 - Biodiversity and Geology

Policy EN13 - Pollution and Hazard Prevention and Minimisation

North Norfolk Design Guide – (supplementary planning document) Section 3.6.1

National Planning Policy (NPPF): (2018):

Section 1 – Introduction

Section 2 – Achieving sustainable development

Section 4 – Decision-making

Section 5 – Delivering a sufficient supply of homes

Section 12 – Achieving well-designed places

## MAIN ISSUES FOR CONSIDERATION

1. Principle of development
2. Layout and design
3. Amenity
4. Trees and ecology
5. Highways and parking
6. Other considerations

## APPRAISAL

### 1. Principle of development

Policy SS 1 sets out the spatial strategy for North Norfolk and identifies main and service settlements where development of varying scales can take place. The remainder of the district, including settlements not listed in the policy, is designated as Countryside. This is the lowest tier of the settlement hierarchy and within the designated countryside area development is restricted to particular types of development which support the rural economy, meet affordable housing needs and provide renewable energy. The types of development acceptable in principle within designated Countryside are listed under policy SS 2 and includes the extension and replacement of dwellings.

This is expanded upon in policy HO8 which permits proposals to extend or replace existing dwellings in the countryside providing the proposal would not result in a disproportionately large increase in the height or scale of the original dwelling, and would not materially increase the impact of the dwelling on the appearance of the surrounding countryside. In determining what constitutes a disproportionately large increase in the size of the dwelling the extent under permitted development rights that the existing dwelling could be extended needs to be taken into consideration.

In this particular instance planning permission was granted in 2005 ref PF/ 20051570 for the erection of a two-storey front extension, a first floor rear extension, conversion and extension of outbuilding to two-storey annexe and erection of covered way. This permission has been implemented and although the two-storey front extension is considered to be in conformity with the approved plans the other elements of the scheme are not. The current application therefore seeks to regularise those unauthorised changes to the approved scheme.

A comparison of the floor areas and overall external dimensions of those elements of the scheme not considered to be in conformity with the approved plans are as follows:-

**Approved scheme:-**

First floor rear extension:-

- Total floor area of 32.64 sq. metres. However due to the asymmetrical pitched roof only 24.96 sq. metres is usable floor area comprising a bedroom, en-suite and small landing.
- Gable width - 7.4 metres
- Eaves height - from ground level (north-western corner) 4.1 metres.
- Eaves height - from ground level (southern elevation) 3.0 metres.
- Ridge height from ground level 5.9 metres.

Covered walkway:-

- Total floor area 15.15 sq. metres.
- Ridge height 3.3 metres

Annexe accommodation:-

- Ground floor - Total floor area 26.48 sq. metres composed of kitchen lounge area and shower room.
- First floor - Total floor area 14.26 sq. metres composed of balcony bedroom.
- Gable width 3.4 metres
- Length 8.6 metres
- Eaves height 3.5 metres
- Ridge height 5.8 metres

**As built:-**

First floor rear extension:-

- Total usable floor area of 32.24 sq. metres composed of a bedroom, en-suite and small landing.
- Gable width - 7.0 metres
- Eaves height - from ground level (north-western corner) 4.1 metres.
- Eaves height - from ground level (southern elevation) 4.1 metres.
- Ridge height from ground level 5.7 metres.

Enclosed walkway / hallway:-

- Total floor area 19.51 sq. metres
- Ridge height 3.3 metres
- Other external dimensions the same as approved scheme but with exception of additional porch area which is 2.1 x 1.0 metres.

Annexe accommodation:-

- Ground floor - Total floor area 27.56 sq. metres composed of kitchen lounge area and shower room.

- First floor - Total floor area 12.09 sq. metres composed of balcony bedroom.
- Gable width 3.4 metres
- Length 8.8 metres
- Eaves height 3.2 metres
- Ridge height 5.6 metres

An analysis of these figures shows that in terms of the covered walkway and annexe accommodation the overall floor areas and external dimensions are very similar in both the scheme as approved and built. The primary difference in the case of the covered walkway is that this has now been enclosed to form a hallway and as such is considered to be part of the habitable accommodation.

In terms of the first floor extension, compared to the approved scheme the amount of usable floor area has increased by some 7.28 sq. metres, and although the actual gable width has been reduced by some 0.4 metres as the eaves height to the southern elevation have been raised by 1.1 metres this in turn has increased the overall cubic content of the extension from 77.36 to 92.40 cubic metres, a 15.04 cubic metre increase.

Compared to the size of the original dwelling, the scheme which was approved in 2005, and which has been implemented without full compliance with the approved plans, represented a significant increase in the scale of the original dwelling. However, this was considered against the previous development plan policies and was found to be acceptable at that time. Furthermore, at the time permission was granted no restrictions were imposed preventing the infilling the open sides of the covered walkway to form habitable accommodation. As such permission is not required for this element of the scheme.

In terms of the first floor rear extension, although policy HO8 requires that proposed extensions are considered against the height and scale of original dwelling, in this instance it is considered that a judgment needs to be made in terms of the impact of the extension, as built, on the neighbouring property and also its material impact on the appearance of the surrounding countryside.

There is dense woodland immediately to the west of the site and the extension is within an enclosed space to the rear of the property. It is considered that the extension as built would not materially increase the impact of the dwelling's appearance within the surrounding landscape.

It is therefore considered that the proposal complies with the requirements and aims of Policies SS2 and HO8 of the adopted North Norfolk Core Strategy in this respect.

The potential impact on the neighbouring property to the south is considered below.

## 2. Layout and design

### Annexe accommodation

With the exception of the removal of the ground floor window to the south elevation and the insertion of a door to the same elevation, which provides access from the annexe to the hallway and the introduction of additional timber cladding the scheme remains the same as approved. Overall it is considered that these design changes are acceptable and given the rural location of the dwelling, which is seen against the backdrop of the adjacent wood the introduction of additional dark stained timber cladding is acceptable and gives the annexe a less prominent appearance.

### First floor rear extension

As currently approved the proposals presented an asymmetrical west facing gable with 2 two light openings and a lower eaves to the southern elevation. In addition, the external walls were shown to be clad with timber boarding. In comparison the eaves to the southern elevation of the extension as built have been raised by 1.1 metres resulting in symmetrical gable with a pitched roof of some 25 degrees. A three light white UPVC window together with a UPVC door have also been inserted in the gable rather than the approved windows. Although not constructed it is proposed within this application that the door would be served by a fire escape / landing and staircase which would project out from the gable by some 3 metres with the stair attached to the rear west facing wall of the covered hallway. The extension is clad in dark stained timber boarding as previously approved.

As with the approved scheme although visually the proportions of the gable are larger than previously approved, any impact is mitigated by its location to the rear of the property and its close proximity to the wood. Only oblique views of the gable are possible even from the neighbouring property to the south. Furthermore, the use of white joinery for the windows and door are considered to be acceptable.

It is therefore considered that the extensions and annexe as built together with the proposed fire escape are suitably designed for the context within which they are set and on planning balance accord with policies HO8 and EN4 in terms of their scale, massing and external appearance.

### 3. Amenity

In terms of the impact on the amenities of neighbouring properties the only dwelling potentially affected by the development is Woodstock Cottage which forms the other half of the semi-detached pair to the south. In 2017 planning permission was granted to extend this property which involved the erection of a two storey side extension with south facing first floor balcony, front porch and single storey flat roofed west facing rear extension. The approved plans, indicated that the rear extension, which physically joins the rear extension to Northbrook Cottage, will serve as a dining area linked to an open plan kitchen within the two storey side extension and will be lit by a lantern light to the flat roof and three light west facing window. The scheme as approved is currently in the course of construction.

The representation received from the owners of Woodstock Cottage suggests that the first floor extension to Northbrook Cottage as built will result in a significant loss of light to their bedroom, hallway and main lounge via a lantern light. In addition, they suggest that the original planning permission for Northbrook Cottage granted in 2005 was specifically designed with the asymmetrical pitched roof in order to preserve what little light there is into their property. Furthermore, that the subsequent design of their rear extension and use of the lantern light was based on this approval. Yet at the time the application for Woodstock Cottage was submitted in 2017 elevational drawing 205-P-001, illustrated the first floor rear to Northbrook Cottage as built with its symmetrical gable. As such, whilst not condoning the unauthorised works it has to be assumed that in developing their proposal for the site the owners of Woodstock Cottage did so in the knowledge that the first floor rear extension to Northbrook Cottage, although unauthorised could have an adverse impact on their proposed rear extension in terms of loss of light.

Notwithstanding this, although there is a discrepancy in the approved drawing 205-P-001, in terms of the actual orientation of the roof lantern, applying the 45 Degree Rule, which is used to measure the impact of proposal on the sunlight and daylight to neighbouring properties, it is considered that any loss of light resulting from the extension as built, would be minimal. In this matter officers particularly note the proposal is to the north of the neighbouring property. Furthermore, it is the opinion of officers that if there is a loss of light this will be primarily due to the fact that the owners of Northbrook Cottage have chosen to



build a two storey extension immediately to the south of the single storey element and the fact that there is a dense woodland of mature trees less than 5 metres to the west.

In terms of the visual impact of the extension on the neighbouring property, given the proximity of both dwellings to the western boundary and fact that there is dense woodland beyond, following completion of the two storey extension to Woodstock Cottage any views from the remaining garden area of that property would be so oblique as to hardly be discernible. Similarly from within the property the only potential view would be from the first floor landing window.

Turning to the proposed erection of the fire escape stair and landing to serve the bedroom contained in the first floor rear extension. As referred to above then following completion of the two storey rear extension to Woodstock Cottage any views from the landing of the fire escape towards that property would be extremely limited. In order to avoid any possible overlooking of either the remaining rear garden area or oblique views of the lantern light it is suggested that as part of any approval a condition be imposed requiring the submission of a drawing showing a privacy screen to the southern side of the landing and for this to be erected prior to first use of the staircase and landing. .

The annexe accommodation would also not give rise to any material amenity issues.

It is therefore considered that the extensions as built together with the proposed fire escape and landing would not have a significantly detrimental impact on the residential amenities of the occupiers of the neighbouring property in terms of loss of light, overbearing or privacy and would accord with the requirements of policy EN4 and the North Norfolk Design Guide.

#### 4. Trees and ecology

Although the issue of trees has been raised by objectors, as the application under consideration relates solely to the retention of the unauthorised works and the erection of the fire escape / landing and does not involve any works to trees within the site, the Landscape Officer has indicated that no arboricultural impact assessment is required. Furthermore, it would appear as far as officers can ascertain that this was not a requirement when the application was originally determined in 2005. Similarly although in close proximity to Smallburgh Fen no ecological assessment is required in respect of protected species or was required in 2005. Furthermore since 2005 legislation and policy has changed.

It is therefore considered that the proposal accords with the requirements of policies EN4 and EN9 in respect of trees and ecology.

#### 5. Highways and parking

As outlined in the representation above a letter of comment has been received from a local farmer and is also a suggestion of the Parish Council that consideration be given to providing off road car parking for Northbrook Cottage within the site.

At the present time there is vehicular access to the property together with driveway and double gates. As such although the applicant appears to choose to park on the highway verge the provision for on-site car parking already exists.

Furthermore, the application under consideration relates solely to the retention of the unauthorised works and fire escape. The residential capacity of the dwelling remains unaltered, as does the required level of car parking, this not something that should be taken into consideration as part of the determination of this application. If there are concerns that parking on the highway verge is causing an obstruction or leading to issues of highway safety, then this is a matter for the highway authority.

## 6. Other considerations

Another area of concern raised by objectors is that the extensions as built do not comply with building regulations. The Councils District Building Control Surveyor who has visited the site considers that the only element of the works which have been undertaken that is not in compliance with building regulation, is the horizontal timber cladding the southern elevation of the first floor extension, due to its proximity to the boundary. However the applicant has agreed to replace this with fire resistant fibre cement cladding such as "Hardiplank".

Concerns have also been raised is that the increase in the residential capacity of the dwelling, when complete, will place extra strain on the existing septic tank, which regularly overflows. It is the opinion of officers that the level of accommodation will be similar to that previously approved and therefore the matter of drainage is not something which should be considered as part of this application. If there are issues of relating to foul or surface water drainage from the site then this is a matter for Building Control and the Councils Environmental Protection Team.

Finally, the neighbour to the west has suggested that the applicants have encroached on their land by installing an oil tank well within their boundary and that the proposed fire escape and walkway access will also be on their land. Although the submitted drawing indicates that there is enough land within the applicants control to provide for the staircase and is show as being within the red line, the issue of the boundary is a civil matter between the applicants and their neighbour and is not considered to be a material planning consideration.

### Summary

Following the granting of planning permission in 2005 the scheme as approved has not been built in accordance with the approved plans. The current application therefore seeks to regularise this situation and also proposes the erection of a fire escape and landing.

Representations received suggest that as built the extensions, particular the first floor rear extension adversely affect their amenities of the neighbouring property in terms of loss of light. Also that the appearance of the extension is unacceptable and out of character with the host building.

An analysis of the scheme as approved and built reveals that with the exception of the first floor rear extension the other works including the annexe and covered walkway are very similar in size and appearance to that approved. Furthermore the infilling of the sides of the covered walkway does not require planning permission. As far as the first floor rear extension is concerned although as built in has a slightly larger floor area and volume the level of daylight and sunlight reaching the neighbours property is considered to be acceptable. In addition its external appearance and the use of timber cladding is not dissimilar to the scheme originally approved.

Other concerns raised by objectors, which include issues of highway safety, drainage and land ownership are either matters which need consideration under separate legislation or are a civil matter outside the authorities control and should not be considered as part of this application.

It is therefore considered that the scheme as built together with the proposed fire escape and landing would comply with the relevant policies of the adopted North Norfolk Core Strategy.

**RECOMMENDATION:** Approve, subject to the imposition of a condition requiring the submission of a drawing showing a privacy screen to the western side of the fire escape landing and for this to be installed prior to first use of the fire escape and landing, together with any other conditions deemed necessary by the Head of Planning.

- (6) **HOLT - PF/18/0939** - Erection of replacement two and a half storey dwelling with integral double garage, including new entrance wall / gates and alterations to the access and driveway; Garden House, Peacock Lane, Holt, NR25 6HD for Mr & Mrs Johnson

**Minor Development**

**- Target Date: 28 September 2018**

Case Officer: Caroline Dodden

Full Planning Permission

**CONSTRAINTS**

LDF - Countryside

LDF - Residential Area

LDF - Settlement Boundary

Conservation Area

Tree Preservation Order

RELEVANT PLANNING HISTORY for Garden House, Peacock Lane, Holt, NR25 6HD

PLA/20041823 PF

Garden House, Peacock Lane, Holt, NR25 6HD

ERECTION OF REPLACEMENT CONSERVATORY

Approved 18/11/2004

PLA/19750389 HR

Garden House, Peacock Lane, Holt, NR25 6HD

ERECTION OF TWO BUNGALOWS

Refused 05/08/1975

**THE APPLICATION**

Planning permission is sought for a replacement dwelling, which incorporates a two bed annexe and integral garage, where access would be maintained from Peacock Lane, Holt.

**REASONS FOR REFERRAL TO COMMITTEE**

At the request of Councillor Duncan Baker with regard to the design, scale and design being appropriate in the context of the site, particularly when set against other properties that have been granted planning permission in the area.

**PARISH/TOWN COUNCIL**

Holt Town Council comments as follows:

- concerned about the encroachment onto the Bridlepath by the application. They have seen the letter confirming that it does not encroach on the public footpath, but believe that the planning proposal would encroach on the bridleway which should be 3 metres wide.
- concerned that on the tree survey plan there are two buildings shown and are concerned

that this application is for two buildings.

## REPRESENTATIONS

A total of seven comments have been received. These are recorded as four letters of objection, one letter of support, and two neutral comments, as set out below:

Four representations have been received, one from Holt Discharged Soldiers Federation Allotments Society Ltd own the land north of Garden House. The following concerns have been raised:

- The access path which runs from Mill Street to Peacock Lane which leads to Kelling Road is a designated bridleway, not a footpath as stated on the plan. The plan shows a fence would be erected along the length of the public right of way. This is not a footpath, it is a bridleway, which should be a minimum of 3m wide and this is not the Applicants land. The proposed 2m width is below that.
- It is stated that the new dwelling will be 1 metre further away from the bridleway than the current position. However, as the plans show that the desired boundary will change, we cannot see how this will happen. It is mentioned that there will be access from the property onto the bridleway, which is not marked on the plan. The committee would need to consider a request in order to gain access to our land.
- The plans discuss the erection of three 6 metre lampposts but these are not shown on the drawn plans. The matter of street lights along this bridleway was discussed at the recent annual general meeting. The majority was against the implementation of any form of lighting here and our position remains the same on this matter.
- Peacock Lane and its narrow entrance to Cromer Road is already a hazard to pedestrians, cyclists and vehicles and the end of the road, where the site is, is not sufficiently strong being of loose gravel. The surface will be degraded by heavy vehicles and become hazardous to pedestrians. Any future development would exacerbate this more. The development could be restricted when completed so that there is no vehicular access from Peacock Lane and no access for construction vehicles.

One letter of support has been received from a neighbour, raising the following points:

- Our house adjoins this site but the plans show the position of the old bungalow not our property. We are closer to the boundaries to the North and West than shown.
- Our concerns relate to the period of building, not the proposed building. The lane is narrow but busy with both local vehicular and also foot traffic from the nearby housing estate around Woodfields Rd. Access to Peacock Lane is narrow and often congested. There is also a children's' playground next door to both properties so young families may be walking to and fro.
- concerned about noise and dust from the demolition and build, and the amount of traffic generated by this project and want reassurance that it will be kept to a minimum. Also the road surface on the unmade section needs to be maintained enabling elderly residents to pass safely.

Two comments, as follows:

- do not object to the building, but have reservations about the plans affecting the public footpath alongside the allotments. The plans appear ambiguous about whether this building and the fencing will reduce the size of the footpath - allotment owners fear this. The work must not block or deter allotment owners and the public from using the footpath.
- The building work surrounding housing site H01 purposely avoided heavy machinery going down Peacock Lane. While this may not compare to a major building development,

wear and tear of the road plus a mix of elderly and young children using this road and should be considered with any developments like this when considering approval. Peacock Lane is very narrow and not strong being unmade in the section before the site. Damage could be considerable and access for construction vehicles could be dangerous.

## CONSULTATIONS

### Environmental Health

No objection subject to the imposition of informative notes regarding the demolition of buildings and the removal of asbestos.

### Landscape Officer

The mature trees on site have amenity value and are important to the landscape of the area and are protected by a Tree Preservation Order. The proposed development will have impact on the trees however it is considered that if it is carried out under supervision of an arborist then the trees can be protected during development. Consent to fell 30 trees on the site has been given previously, subject to replanting as part of any development. It is noted that it is clear from the landscape plan that the proposed number of trees falls well short of this figure. Several of the trees removed were large and had significant landscape value. It is considered that the landscaping plan should show larger species to be planted such as pines.

The Landscaping plan in its current form shows another plot on the site. It is advised that this cannot be considered as part of the current application and should not be shown. Further, to ensure that the required trees are planted, a scheme for hard and soft landscape proposals should be submitted and conditioned as part of the application.

The protective species report recommends improvements for the site which should be included in the landscaping plan. When a Landscaping Plan has been agreed there would be no objection to the development in this respect, subject to conditions.

### Public Rights of Way

The public right of way to the north of this application site is defined on the Definitive Map and Statement as being a footpath. It can only be used by the public on foot or on mobility scooters or by wheelchair users. It is not a bridleway.

The southern highway boundary line of this footpath is the line of the main trunks of the ancient field boundary hedge. This field boundary hedge has been shown on mapping going back to the early 1800s. Where the hedging has been removed, the highway boundary line remains as being on the ancient hedge line. At the Garden House building, the highway extends to the ancient hedge line. The strip of land between the highway boundary (hedge line) and the face of the building is in private ownership.

No part of this application is forward of the highway boundary line so it not encroaching onto the public highway in any way. The northern boundary of this footpath does not affect this application site and has no relevance to this planning application.

No objection in principle, but highlight that a Public Right of Way, known as Holt Footpath 4 is aligned immediately to the Northern boundary of the site. The full legal extent of this footpath must remain open and accessible for the duration of the development and subsequent occupation. Additional comments refer to the fact that Norfolk County Councils' Highway Boundaries Team have carried out detailed investigations as to the correct legal alignment of Holt Footpath 4. The conclusion of this research is that the proposal does not encroach onto the highway.

## Conservation and Design Officer

The site lies within the designated Glaven Valley Conservation Area and is characterised by both the existing 1950s two-storey dwelling and its verdant setting with established vegetation enclosures and mature trees. In this context the built form of the site carries a rather modest and unassuming presence within this edge of settlement location. The wider architectural context of Peacock Lane is mixed in terms of style but very much weighted towards modest single-storey and two-storey dwellings.

Although heavily altered, the existing dwelling, known as the Garden House, is very much of its time and reflects its 50s architectural charm through its pitched pantile roof with large over-sailing eaves and red brick detailing which frame the lower levels of the ground floor. Whilst the building is not of special architectural or design interest, it does make a contribution to the area and embodies an underrepresented phase in the town's evolution. Given the level of alteration which has taken place and its undesignated status, the building is certainly not sacrosanct to alteration or indeed, demolition. With this in-mind, there is no overriding objection in principle to the demolition; however, any replacement dwelling must contribute to the prevailing character and appearance of the area and react to its architectural and landscape setting. Unfortunately, it is considered that the proposed replacement dwelling with its seven bedrooms and attached garages fails in this regard; primarily for the following reasons:-

The cumulative scale and massing of the replacement dwelling is extremely heavy and bulky. Integrating the conjoined gross internal area (GIA) of 547m<sup>2</sup> has very much transferred to the external appearance of the building which has become cumbersome and imposing. The linking of the various wings and garages only exacerbate the quantum of built form and prevailing sense of over-development. The proportions of the hipped roofs and gable ends are squat and lack the required pitch to effectively fulfil the neo-vernacular intention.

The elevational detailing also seems to have been caught up in this neo-vernacular vs contemporary struggle and lacks overall cohesion. The openings and fenestration detail have large contemporary proportions but when applied in this neo-vernacular form seem oversized and transcend the host building. The regularity of this punctuation to the elevations and within the roofscape leaves a rather disjointed end result. The plethora of rooflights which interrupt and clutter the roofscape are compounded by the solar arrays proposed on the garage and the two-storey side and rear slopes.

The finishing treatments proposed lack grounding and local distinction. In particular the 'Forticrete Polished Florentine brick in diamond white' lacks any tangible relationship to the locality. The reliance on this finishing material coupled with Redland Cambrian slate will leave the building looking stark and entirely incongruous.

The site's access and proposed entrance gates are visible within the Peacock Lane streetscene. The railings, black gates and gate piers continue this sense of over-development and the lack of relationship to the setting, which is currently characterised by more informal brick dwarf walls, timber posts and hedge boundaries. The height of the gates and piers seems somewhat unnecessary and creates an overly imposing barrier.

For the reasons as set out above, the proposed replacement dwelling and associated development would fail to preserve or enhance the character and appearance of the Conservation Area. By virtue that the proposal would result in less than substantial harm to a designated heritage asset (the conservation area) and in the absence of any public benefit to outweigh this harm, it is considered that the proposal is contrary to local and national policies and therefore recommend the application for refusal.

## Highway Authority

No objection as the proposal does not affect the current traffic patterns or the free flow of traffic. The self-contained ancillary accommodation unit should remain ancillary to the main dwelling and not occupied independently, given the unadopted, narrow nature of the access track which is unsuitable for increased use. A condition is requested to secure this along with one to ensure the access and parking is laid out and available.

## HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development may raise issues relevant to

Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights, and the general interest of the public, approval of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

## CRIME AND DISORDER ACT 1998 - SECTION 17

The application raises no significant crime and disorder issues.

## POLICIES

North Norfolk Core Strategy (Adopted September 2008):

SS 1 - Spatial Strategy for North Norfolk

SS 2 - Development in the Countryside

SS 3 - Housing

SS 9 - Holt

EN 4 - Design

EN 6 - Sustainable construction and energy efficiency

EN 8 - Protecting and enhancing the historic environment

EN 9 - Biodiversity and geology

CT 5 - The transport impact of new development

CT 6 - Parking provision

North Norfolk Design Guide - Supplementary Planning Document (SPD) (2008) - Chapter 3

## MAIN ISSUES FOR CONSIDERATION

- 1) Principle of Development
- 2) Design and Heritage Impact
- 3) Amenity
- 4) Highways
- 5) Landscape and Biodiversity
- 6) Energy Efficiency
- 7) Other material planning considerations

## APPRAISAL

- 1) Principle of Development

The town of Holt is identified as a Principal Settlement within policy SS 1 of the Core Strategy. The Site Allocations Development Plan was adopted by NNDC on 23 February 2011. The Examining Inspector at the time proposed that one change was needed to meet legal and statutory requirements. This was summarised as follows:

- 'Deletion of proposed housing allocation on land south of Cromer Road, Holt and its replacement by a new allocation on land west of Woodfield Road, Holt.'

Therefore the above site was included in the Site Allocations Plan (as Site H01 and is detailed on pages 52-53 of the document). The northern extent of the allocated site effectively defines the settlement boundary for Holt. Land to the south and south-east of the allocated site (including allotments and the property known as the Garden House) are shown on the published Proposals Map (2008) as being within the Countryside Policy Area. The designation of 'Countryside Policy Area' is no longer considered to apply in this location and has been amended.

As such, the entirety of the property known as 'Garden House' is considered to fall within the Residential Area for Holt and should be considered on this basis in relation to current and future planning applications. Therefore, the principle of the proposed replacement dwelling is considered acceptable in accordance with Policy SS 1.

The proposal seeks to demolish the existing dwelling and provide a new 5 bedroom dwelling, incorporating a 2 bedroom residential annexe. Whilst the existing 1950s dwelling is not of special architectural or design interest, it does make a contribution to the area and embodies an underrepresented phase in the town's evolution. However, given the level of alteration which has taken place to the dwelling and its undesignated status, it is considered that the building is not sacrosanct to alteration or indeed demolition. As such, there is considered to be no overriding objection in principle to the demolition of the existing dwelling, but the overall acceptability of the development is subject to complying with a range of other policy criteria. These are assessed in the sections below.

## 2) Design and Heritage Impact

Policies EN 4 and EN 8 are considered to be of particular relevance to the proposal. Policy EN 4 requires that all development is designed to a high quality, reinforcing local distinctiveness and states that innovative and energy efficient design will be particularly encouraged. It continues, that design which fails to have regard to local context and does not preserve or enhance the character and quality of an area will not be acceptable. The policy sets out a list of matters, which development proposals are expected to have regard to. Policy EN8 states that proposals are required to preserve or enhance the character and appearance of designated assets and their settings through high quality, sensitive design. Both of these policies are underpinned by the North Norfolk Design Guide. Chapter 3, section 3.4 Building Design, sets out the general rudiments of design in terms of scale, form and detailing.

Formal Conservation and Design consultation was not requested in the early stages of the application. However, when revised drawings were submitted, which addressed some matters, but not the fundamental concerns raised, formal Conservation and Design comment was sought. More recently, additional comments have been received from the Applicant rebutting the Conservation and Design Officer's comments and stating that the Applicant would be willing to discuss suggestions to reduce the height of the building, heights of the gates/ front boundary wall and amendments to the first floor windows.

The site falls within the designated Glaven Valley Conservation Area, which covers a large, mainly rural area. The plot itself is roughly rectangular in shape, characterised by both the existing 1950s two-storey dwelling (with single storey additions) and its well established landscape setting including a number of mature trees. The wider character of the area is largely residential in nature, having a mixture of dwellings to the northeast, east and south of the site. The two closest dwellings are single storey properties that are located immediately to the east of the plot and between which, the vehicular access to the site is gained. There is a public footpath (Holt Footpath 4) that runs immediately along the northern boundary of the site and there are allotments located to the north. The wider architectural



context of Peacock Lane is mixed in terms of style, but appears to be mainly composed of modest single-storey and two-storey dwellings.

The proposed dwelling would sit in the same position as the existing property, towards the back of the site, close to the northern boundary of the plot. The proposed property would be taller than the existing dwelling, as habitable rooms are proposed in the roof space and the overall scale and massing of the new dwelling would also be greater than the existing. However, it is considered that the impact of the replacement dwelling on the Glaven Valley Conservation Area would be very localised, given that there would only be limited views of the property from the public footpath that runs to the north of the plot.

The proposed dwelling would consist of a five bed dwelling, a two bedroom self-contained annexe and an integral garage. Policy EN 4 states that development should ensure that the scale and massing of buildings relate sympathetically to the surrounding area. Specifically, the Design Guide SPD states that eaves heights and gable widths are significant determinants of building scale and that care is therefore needed to ensure that today's room size expectations do not create buildings which are out of scale with neighbouring properties. It continues that where accommodation requirements cannot be contained within this confined envelope, buildings may have to be divided into visually distinct elements in order to reduce their overall size. It is considered that the scale and massing of the replacement dwelling is very heavy and bulky largely as a consequence of integrating the conjoined gross internal area (GIA) of 547m<sup>2</sup> into one building, which has caused the overall external appearance to become cumbersome and imposing. Notwithstanding the Applicant's concerns regarding security, it is considered that the linking of the various wings and garage to the main dwelling exacerbates the overall built form. Added to this, the proportions of the hipped roofs and gable ends are squat and lack the required pitch to effectively fulfil the neo-vernacular intention.

It is considered that the proposed fusion of traditional and contemporary styles incorporated within the elevational detailing lacks overall cohesion. The openings and fenestration details take the form of large contemporary proportions but when applied in a neo-vernacular style these details appear oversized and transcend the host building. Consequently, it is considered that the regularity of this punctuation to the elevations and within the roofscape would create a disjointed end result. Added to this, it is considered that the finishing treatments proposed lack grounding and local distinction. In particular, the 'Forticrete Polished Florentine brick in diamond white' lacks any tangible relationship to the locality. As such, the reliance on this finishing material coupled with Redland Cambrian slate would leave the building looking stark and entirely incongruous.

As described above, it is considered that the proposed replacement dwelling by reason of its cumulative scale, massing, detailing and external materials, would provide a building of poor design that would fail to preserve or enhance the character of the area, being out of scale with its surroundings and which fails to reinforce local distinctiveness. The proposal is therefore considered to be contrary to policies EN 4 and EN 8 of the adopted North Norfolk Core Strategy (2008), Chapter 3 of the North Norfolk Design Guide Supplementary Planning Document (2008) and the statutory duties as set out within Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 127, 130, 194 and 196 of the NPPF.

### 3) Amenity

Due to the position and orientation of the proposed replacement dwelling and the distances and landscape screening between the site and neighbouring properties, it is considered that the proposal would not have a detrimental impact on the residential amenities of surrounding neighbours, in accordance with this part of policy EN 4.

#### 4) Highways

The objectors' concerns regarding construction traffic are noted, particularly as Peacock Lane is a narrow road that further narrows to an unadopted track. However, given that the proposal is for one replacement dwelling, albeit with an integral 2 bed annexe, it is considered that the level of construction traffic would not be significant enough to require specific management or control under a planning condition. The resultant traffic movements from the proposed development would not raise highways concerns, provided the proposed self-contained annexe would remain ancillary and would not be occupied independently from the main dwelling, as the unadopted, narrow nature of the access track is considered to be unsuitable for increased use. This could be secured by condition. The proposal would be able to provide the necessary parking requirements for the proposed 5 bedroom dwelling and integral 2 bedroom annexe. Overall, the proposal would be in accordance with policies CT 5 and CT 6.

#### 5) Landscape and Biodiversity

The Applicant was advised that, although the Landscape Officer had requested the submission of a full landscape scheme in advance of determination, this matter could be satisfactorily dealt with by the imposition of a condition should the proposal be recommended for approval, to secure an appropriate level of new tree planting and other landscaping to compensate for those trees previously felled. It is noted that the additional plot boundary shown on the original Landscape Plan has been removed in a subsequent version.

A Protected Species Survey was submitted in support of the application. It concluded that no evidence of any protected species was found during the survey (July 2018). The survey recommends a low external light level regime for the site. Significant additional landscaping would also enhance local wildlife habitats, in accordance with policy EN 9.

#### 6) Energy Efficiency

It is noted that the proposal would incorporate the installation of two groups of solar PV panels, which is encouraged under policy EN 6.

#### 7) Other Material Planning Considerations

A Public Right of Way, known as Holt Footpath 4, is aligned immediately to the northern boundary of the site. Objectors have highlighted concerns that the proposed development, and in particular, the proposed northern boundary fencing, would encroach on to the adjacent public footpath and that this Right of Way is a bridleway. Norfolk County Councils' Highway Boundaries Team have carried out detailed investigations as to the correct legal alignment of Holt Footpath 4 and have concluded that the proposal does not encroach onto the highway. The team have also confirmed that the public right of way to the north of the site is defined on the Definitive Map and Statement as being a footpath and is not a bridleway. Where the hedging has been removed, the highway boundary line remains as being on the ancient hedge line. At the Garden House building, the highway extends to the ancient hedge line. The strip of land between the highway boundary (hedge line) and the face of the building is in private ownership.

No part of the application is forward of the highway boundary line and so it is concluded that it would not encroach onto the public highway. In addition, the northern boundary of the footpath would not be affected by the proposed development application site and has no relevance to this planning application.

Given the investigations and conclusions of the County Council Highway Research Team, it is considered that the proposed development would not encroach onto the defined public footpath and as such, would not be detrimental to the appropriate and continued public use of the right of way as specified by the County Council Highway Research Team, provided that it would remain open during construction. This matter could form the subject of a condition, should Committee approve the application.

## Conclusion

It is considered that the proposed design, scale, massing and external materials of the replacement dwelling and associated development would fail to provide a development that would reinforce local distinctiveness and preserve or enhance the character and appearance of the local area or the Glaven Valley Conservation Area. By virtue that the proposal would result in less than substantial harm to a designated heritage asset (the conservation area) and in the absence of any public benefit to outweigh this harm, it is considered that the application is contrary to policies EN 4 and EN 8 of the North Norfolk Core Strategy, the statutory duties as set out within Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraphs 127, 130, 194 and 196 of the NPPF.

The development is not considered to be in accordance with the requirements of the Development Plan, and it has been concluded that there are no material considerations which would outweigh the policy conflict. Therefore refusal of the application is recommended.

### **RECOMMENDATION: Refuse, for the following reason:**

- 1 In the opinion of the Local Planning Authority the proposed development of a replacement dwelling by reason of its poor design, scale and massing of the replacement dwelling and associated development would fail to provide a development that would reinforce local distinctiveness and preserve or enhance the character and appearance of the local area or the Glaven Valley Conservation Area. As such, the application is contrary to policies EN 4 and EN 8 of the North Norfolk Core Strategy, the statutory duties as set out within Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Chapter 3 of the North Norfolk Design Guide Supplementary Planning Document (SPD) (2008).

### (7) **APPLICATIONS RECOMMENDED FOR A SITE INSPECTION**

There are no recommended site inspections at the time of publication of this agenda.

## **APPEALS SECTION**

### (8) **NEW APPEALS**

**BINHAM - PF/17/2178 - Erection of single-storey rear extension; The Stewards House, 27 Front Street, Binham, Fakenham, NR21 0AL for Mr Holmes**  
WRITTEN REPRESENTATIONS

**BINHAM - LA/17/2179 - Internal and external alterations to facilitate erection of single-storey extension; The Stewards House, 27 Front Street, Binham, Fakenham, NR21 0AL for Mr Holmes**  
WRITTEN REPRESENTATIONS

**BINHAM - PU/18/0398 - Prior approval for proposed conversion of agricultural buildings to two dwellinghouses (Class C3) and associated operational development; Agricultural Buildings, Westgate Farm, Warham Road, Binham, NR21 0DQ for Norfolk County Council**  
WRITTEN REPRESENTATIONS

**DUNTON - PF/17/0613 - Equestrian business with stabling and teaching facility including formation of riding arena with floodlighting, new building to provide stabling; Cannister Hall Barns, Swaffham Road, Toftrees, FAKENHAM, NR21 7EA for Mr Donohue**  
WRITTEN REPRESENTATIONS

**FAKENHAM - PF/17/2015 - Extension to annexe (retrospective); 6 Whitelands, Fakenham, NR21 8EN for Ms Steel**  
WRITTEN REPRESENTATIONS

**PUDDING NORTON - PF/18/0229 - Erection of three dwellings (affordable housing comprising 1 bungalow & 2 two-storey houses) - part retrospective; Adjacent to, 24 Green Lane Estate, Pudding Norton, Fakenham, NR21 7LT for Mr Tevenan**  
WRITTEN REPRESENTATIONS

(9) **INQUIRIES AND HEARINGS – PROGRESS**

**TUNSTEAD - PF/17/0428 - Change of use from Agricultural to General Industrial (Class B2) (retrospective); Unit 13, Beeches Farm, Crowgate Street, Tunstead, NORWICH, NR12 8RF for Mr Platten**  
PUBLIC INQUIRY 25 September 2018

**ALBY WITH THWAITE - ENF/17/0201 - Static caravan used for full residential purposes.; Thwaite Hill Farm, Middle hill, Thwaite Road, Alby, NR11 7PN**  
PUBLIC INQUIRY 29 January 2019

**TUNSTEAD - ENF/15/0067 - Unauthorised commercial uses of former agricultural buildings; Beeches Farm, Crowgate Street, Tunstead, Norwich, NR12 8RF**  
PUBLIC INQUIRY 08 November 2018

(10) **WRITTEN REPRESENTATIONS APPEALS - IN HAND**

**BINHAM - PF/17/2178 - Erection of single-storey rear extension; The Stewards House, 27 Front Street, Binham, Fakenham, NR21 0AL for Mr Holmes**

**BINHAM - LA/17/2179 - Internal and external alterations to facilitate erection of single-storey extension; The Stewards House, 27 Front Street, Binham, Fakenham, NR21 0AL for Mr Holmes**

**BINHAM - PU/18/0398 - Prior approval for proposed conversion of agricultural buildings to two dwellinghouses (Class C3) and associated operational development; Agricultural Buildings, Westgate Farm, Warham Road, Binham, NR21 0DQ for Norfolk County Council**

**BODHAM - PO/17/2115 - Erection of detached single story dwelling (outline application with all matters reserved); 15 Hart Lane, Bodham, Holt, NR25 6NT for V Jay**

**DUNTON - PF/17/0613 - Equestrian business with stabling and teaching facility including formation of riding arena with floodlighting, new building to provide stabling; Cannister Hall Barns, Swaffham Road, Toftrees, FAKENHAM, NR21 7EA for Mr Donohue**

**HOLT - PO/18/0061 - Erection of single storey dwelling - outline (details of access only); Highgate, Norwich Road, Holt, NR25 6SW for Mr & Mrs Bond**

**PUDDING NORTON - PF/18/0229 - Erection of three dwellings (affordable housing comprising 1 bungalow & 2 two-storey houses) - part retrospective; Adjacent to, 24 Green Lane Estate, Pudding Norton, Fakenham, NR21 7LT for Mr Tevenan**

**FAKENHAM - ENF/17/0216 - Building works not in accordance of the approved plans- ref PF/16/0858; 6 Whitelands, Fakenham, NR21 8EN**

**MELTON CONSTABLE - ENF/16/0086 - Unauthorised works to listed building; Bath House, Melton Park, Dereham Road, Melton Constable, NR24 2NG**

**MELTON CONSTABLE - ENF/16/0087 - Removal of Clock Mechanism - Listed Building; Clock Tower, Melton Constable Hall, Dereham Road, Melton Constable, NR24 2NQ**

**MELTON CONSTABLE - ENF/16/0088 - Removal of Cupola - Listed Building; Fire Engine House, Melton Constable Hall, Melton Park, Dereham Road, Melton Constable, NR24 2NQ**

**RUNTON - ENF/18/0299 - Unauthorised engineering works; 2 Garden Cottages, Felbrigg Road, East Runton, Cromer, NR27 9PE**

**(11) APPEAL DECISIONS - RESULTS AND SUMMARIES**

**FAKENHAM - PO/17/1554 - Outline planning permission for the erection of single storey dwelling (including matters of access, layout and scale); 209 Norwich Road, Fakenham, NR21 8LR for Mr & Mrs MacBrayne  
APPEAL DECISION:- APPEAL DISMISSED**

**FAKENHAM - PF/17/1599 - Erection of single storey detached dwelling; The Housekeepers Bungalow, Norwich Road, Fakenham, NR21 8LF for Raven Development Co Ltd  
APPEAL DECISION:- APPEAL DISMISSED**

**HIGH KELLING – CL/17/0500 Appeal Reference: APP/Y2620/X/18/3196579  
Certificate of Lawful use/Development for housing development of the site: Land known as ‘Mattocks Field’ between Heathfield Road and Warren Road, High Kelling, Norfolk  
APPEAL DECISION:- APPEAL DISMISSED**

Summaries of the above appeal decisions are attached at **Appendix 2**.

**HIGH KELLING - PF/18/1177 - Conversion and extension of existing garage to provide annexe accommodation; Tudor Lodge, Vale Road, High Kelling, Holt, NR25 6RA for Mr & Mrs Holloway  
APPEAL DECISION:- APPEAL ALLOWED**

A summary of the above decision will be reported to the next meeting.

(12) **COURT CASES - PROGRESS AND RESULTS**

No change from previous meeting.

**Appendix 1: Fakenham PF/18/1621****A commentary on the previous changes to land use designations at Trinity Road**

In respect of application PF/18/1621 and its predecessor permission PF/15/1167, it is worth recapping the site's land use designations in light of concerns and comments received from local residents and the Town Council. Those comments raise issues originating with the permission granted under earlier application PM/13/0953 (which was a reserved matters application) and the even earlier outline planning permission granted under application PO/10/0343.

Prior to application PO/10/0343 the site was "Countryside land". The 2008 Core Strategy had not formally designated the area for new development, and only designated the supermarket to the east & north-east as "Employment land". This site and land to the west of Thorpland Road was anticipated to become part of the site allocation for Fakenham's northern extension (now site allocation policy F01), but it had not gone through the examination or adoption stage yet, and specific areas had not been identified for the different uses as are recognised now.

Permission PO/10/0343 was granted as an outline application with all matters except access and layout reserved for future development. Therefore, the principle of the site's use was established under this outline permission, which was described as a "community" use with some limited "employment" provision, but was not an "employment development" per se in terms of being supported despite being contrary to policy (i.e. development in the Countryside). In fact, the scheme was approved on the basis of being associated with the development of the adjoining new Fakenham Medical Centre site to the north of this, which was granted permission at the same time, under application PF/10/0344: 'Erection of Medical Centre and pharmacy with ancillary parking and new road access'. When permission PM/13/0953 was granted in 2013, this was only to realise the details of appearance, scale and landscaping pursuant to the outline permission.

The site was never formally designated as an employment area even in the site allocation policy F01 which was adopted in 2011 but which identified the broad swathe of development land to the north of Fakenham as being suitable for employment and residential uses in general terms. It was only when the Fakenham northern extension Development Brief was subsequently approved for adoption in 2014 that this site was identified as an "employment area" within the broadly-proposed development layout for the whole allocation, because it recognised the employment-generating community use permission PO/13/0343 and reflected that.

Application PF/15/1167 then sought to amend the use of the site, moving away from the very limited "employment" uses of the outline permission and allowing housing in its place (in the form of general needs affordable housing and the block of 'extra care' sheltered housing flats).

It was recognised in the planning officer's delegated report to the head of planning that the scheme was contrary to the intentions of the site allocation policy and stated:

*"The current proposal no longer includes any B1 offices on the site and this might be considered to undermine the objective of achieving a mix of employment and housing within this allocation, however, the extra care flats in the proposed development will still provide employment opportunities and it is considered that the proposal offers significant benefits by providing for a range of social housing needs that might otherwise be difficult to deliver in the area.*

*On balance it is considered that the benefits of securing a range of social housing, outweighs any limited loss of previously approved employment at the site....*

*...While the contribution of this site to employment provision has been diminished, relative to the earlier applications, it is considered that **the benefits of providing a significant amount of much needed social and care housing outweighs the loss of employment land in this instance.***

The importance of the specific public benefits of the scheme (which addressed an identified housing need) being approved at the expense of development within a defined employment area is also reflected in the use of Condition 27 of permission PF/15/1167 which states:

*“Condition 27:*

*Occupation of the 66 Housing with Care Flats shall be limited to:*

*a person who is at least 55 years old; or*

*the spouse, partner, civil partner, common law partner or other relation who shares or has previously shared occupation of the Dwelling with a Qualified Person.*

*Reason:*

*The site is located within a defined employment area where the public benefits of the proposal in respect of employment opportunities in the care sector together with the public benefits of improved and affordable extra care facilities are considered to outweigh the loss of employment land. the occupancy restriction is required so as to ensure the units are occupied for their intended purpose.”*

Unfortunately, it does appear that the planning application PF/15/1167 was only advertised in the press and on site notices as a ‘major development’ and not as a departure from the development plan policy. However regrettable this oversight may be, the application was publicised with site notices at Thorpland Road/Rudham Stile Lane, and on Holt Road, and attracted some responses from a local resident which suggests there was suitable opportunity to provide comments in the usual fashion. Further, the Town Council also made comments which represented the interests of the residents of Rudham Stile Lane, describing the ownership disputes still raised today. It is not considered that any interests have been prejudiced by the previous application’s advertisement, and the ‘in principle’ decision can be seen to be correctly and appropriately considered and weighed-up ‘in the balance’.

Concerns are raised today about the previous permission not having re-advertised the amendments received, but in fact there is evidence that a second period of consultation was opened and site notices were used to advertise the receipt of amended plans. However, the changes made were not so materially different that they could have detrimentally affected residents. The officer’s report describes the amended plans thus:

*“A number of amended plans have been submitted, making minor modifications to elevations, providing additional landscaping features (including a greenhouse and allotment area for residents), as well as modifications to parking and turning areas.*

*In addition, the applicant has provided an amended plan that details the existing site levels and the levels proposed. The application proposes to infill the dip on the southern edge of the site, to provide a gradual slope across the site from a high point in the west to a low point in the south-east (a drop of just over 1.5m). The largest area of fill will be in the area proposed for the turning head and staff parking, on the southern edge of the site, where land levels will be raised by about 1.55m. There is a significant amount of spoil already on the site and further spoil will be created by excavations of the foundations and basement of the proposed buildings. It is considered unlikely that additional material will need to be imported to re-grade the site as proposed, but a*



*condition is recommended to control the nature of such materials should the necessity arise. Re-grading the site in this way helps to facilitate level access to all the buildings and allows free movement around the site for the disabled (no steps). A gentle fall across the site will also simplify drainage design.”*

Although the land levels were changed notably, especially along the boundary at the southern end of the site where land was raised by 1.55m, the impact would not be especially noticeable to residents once constructed, because the area was to be used for parking/turning, a refuse store, a bungalow and gardens behind a boundary fence (of unspecified material). The changes were not unduly detrimental to amenity according to the description of the changes presented.

### **Questions asked by Fakenham Town Council**

1) Was the procedure for the previous applications' consultations correct around the change of use from an employment allocation into a housing site?

With the exception that, unfortunately, planning application PF/15/1167 was only advertised in the press and on site notices as a 'major development' and not as a "departure from the development plan", then the applications have been processed & consulted on appropriately. See further the explanations provided at Appendix 1 of the Development Committee report above.

2) Did the previous permission PF/15/1167 increase the levels of parking above that in permission PM/13/0953?

The PM/13/0953 development would have included 123 parking spaces for visitors and staff together with designated ambulance bays. This development proposes 93 spaces across the 101 total number of dwellings, comprising visitors, medical staff and residents. As such the levels of traffic impact are much reduced, and being entirely-residential in nature the character of impact will be spread across the day rather than have a peak hour commuter impact from employment uses. It is noted there is not the required minimum 1 space per dwelling but the character of the occupants (which is required in perpetuity by conditions) and the close proximity of facilities and on-site services and care all means lower provision is justified.

3) Has the foul drainage holding tank been approved?

Neighbours have raised concerns with the use of underground chamber drainage tanks positioned alongside the southern boundary during the construction stage. These are separate foul and surface water holding tanks. Construction personnel have confirmed the surface water tanks are as per the approved drainage scheme, and are manually pumped empty as and when needed in advance of the approved connection to the north being installed.

The smaller foul water tank on site is a temporary solution used to collect foul waste from the construction site under gravity and it is emptied on a weekly basis; in due course it would be replaced with the surface water tanks for the 66 flats. The holding tank does not have specific planning permission and would technically comprise an operational development requiring planning permission in itself because it wasn't a part of the planning conditions; however, it is not considered expedient to pursue this in the public interest, nor would it be reasonable to take enforcement proceedings given that it is located in the same area as the surface water tanks will be placed in due course, so will create the same impacts as the surface water tanks had they been installed by now. Construction of all three tanks is required to follow the

approved tree protection details, which will be reiterated on any new permission, and which the Planning Enforcement Team are content have been followed to date.

4) Did the developer need permission to connect to domestic foul sewage and gas supplies?

Planning permission was not required, but the relevant permissions for connections have been agreed with the utility companies, including Anglian Water Services.

5) Have boundary treatments been specified? Will it be robust and prevent access into the private Rudham Stile Lane cul-de-sac?

The boundary with Rudham Stile Lane is proposed to be a close board fence rather than a previously-suggested chain link mesh fence, and will provide much better security as well as providing a screen from car headlight, activities and noise on the development site.

6) Does the applicant control all the land in the application and can they begin works if not?

At the time the application was made, the applicant confirmed they owned all the land in the application site. In working up the details of the Section 106 variation agreement (a process which requires confirmation of land ownership), it has been adequately demonstrated that the applicant does own the land affected by these variations, although the land containing the 35 dwellings already constructed has transferred into different ownership(s). It is not for planning to take issue with separate ownership so long as there has been appropriate notice and opportunity for comments, and provided that any obligations will not be compromised by separate land ownership. The developer can start / continue with development if they are not the owner, but in most cases are likely to need to give notice to the owner(s).

<b>Application Number: PO/17/1554</b>	<b>Appeal Reference: APP/Y2620/W/18/3201533</b>
<b>Location: 209 Norwich Road, Fakenham, NR21 8LR</b>	
<b>Proposal: Erection of a single storey dwelling</b>	
<b>Officer Recommendation: Refuse</b>	<b>Member decision (if applicable): N/a</b>
<b>Appeal Decision: DISMISSED</b>	<b>Costs: N/a</b>
<p><b>Summary:</b> The main issue the Inspector considered is:</p> <ul style="list-style-type: none"> <li>The effect of a single storey dwelling on i) the form and character of the area, and ii) the living conditions of occupiers of the host dwelling, with particular regard to noise form vehicular movements.</li> </ul> <p>Form and character of the area: The Inspector considered that the proposed dwelling would be out of keeping with the prevailing pattern of housing. The Inspector noted the other sites the appellant had cited but agreed with the Council that these were wholly different. He found the development to be unduly confined and an uncharacteristic form of development in a backland area contrary t policy EN4.</p> <p>Living conditions of occupiers of the host dwelling: The Inspector agreed that occupiers of number 209 would experience adverse effects of additional noise and disturbance form vehicular movements associated with the new dwelling given the access runs directly adjacent to the side and rear of 209. This gave further weight to his consideration that the proposed development was out of keeping with the character of the area.</p>	
<b>Relevant Core Strategy Policies:</b> EN4- Design	
<b>Relevant NPPF Sections/Paragraphs:</b> Part 12 – Achieving well designed places	
<b>Learning Points/Actions:</b> N/a	

<b>Application Number: PF/17/1599</b>	<b>Appeal Reference: APP/Y2620/W/18/3204448</b>
<b>Location: The Housekeeper’s Bungalow, Norwich Road, Fakenham, NR21 8LF</b>	
<b>Proposal: Construction of a single two bed bungalow</b>	
<b>Officer Recommendation: Refuse</b>	<b>Member decision (if applicable): N/a</b>
<b>Appeal Decision: DISMISSED</b>	<b>Costs: N/a</b>
<p><b>Summary:</b> The main issue the Inspector considered is:</p> <ul style="list-style-type: none"> <li>Whether this would be an appropriate siting for a bungalow with particular regard to providing acceptable living conditions for future occupiers of the houses at 2 and 4 Mission Lane and the in the interests of protecting adjacent trees.</li> </ul> <p>The Inspector noted the site and that Housekeepers Cottage and the adjacent appeal site appear to be originally part of the grounds of the large house adjacent to the other side, but were excluded from a site where five detached houses were allowed by the Council; all of which have subsequently been built and occupied. Like these completed new houses, the bungalow would be sited towards the side of these original grounds and be served by the same access, lined with mature trees, which leads onto Housekeepers Cottage and the original main house.</p>	

He also noted that, unlike those dwellings near to the completed plots in these grounds, the houses immediately adjacent the appeal site, Nos 2 and 4 Mission Lane, directly abut the boundary and have no intervening curtilage of their own to this side. Their rear windows therefore currently look over the appeal site towards the mature trees along the site access which is land outside their control.

Importantly, the Inspector noted that it is not for this appeal to determine whether the site comprises the curtilage of Housekeepers Cottage. If it were, then the land might benefit from domestic permitted development rights for buildings incidental to its enjoyment as such. Whether or not this would be the case, any use of this land could impinge upon the privacy of these existing houses and permitted development rights would also permit a fence of up to 2m in height along the boundary, directly in front of rear facing ground floor windows.

The Inspector gave weight to the potential fall back option of implementing permitted development rights and to the relative benefits in setting the boundary fence 1.2m back from these neighbouring houses. However, he considered that this did not avoid the impacts on living conditions of a new proposal remaining a material planning consideration. He found the siting of the bungalow close to the boundary that Nos 2 and 4 face directly up to would mean the potential for mutual overlooking. This would be mainly between the garden areas either side of the new dwelling and the upstairs rooms in Nos 2 and 4. The garden areas adjacent the proposed dwelling would likely be the subject to more intense use than if remaining further parts of the land connected to Housekeepers Cottage. I find the proposal would cause significant harm through inadequate levels of privacy and would consequently provide unacceptable living conditions for existing and future occupiers contrary to EN4.

Turning to the issue of the trees, the Inspector considered that the mature trees already cast shade over the appeal site, which would vary at times of the day and year. In relation to the trees, the siting of the bungalow is comparable to the adjacent newly-built dwellings. There is no evidence that the occupation of these has resulted in pressure to carry out harmful surgery to the trees, which already benefit from legal protection. I find insufficient grounds to consider the bungalow would further provide for inadequate living conditions due to the lack of light and nor would it be likely to result in pressure for works harming these trees

**Relevant Core Strategy Policies:**

EN4 - Design

**Relevant NPPF Sections/Paragraphs:**

Part 12 – Achieving well designed places

**Learning Points/Actions:**

N/a

<b>Application Number:</b> CL/17/0500	<b>Appeal Reference:</b> APP/Y2620/X/18/3196579
<b>Location:</b> Land known as 'Mattocks Field' between Heathfield Road and Warren Road, High Kelling, Norfolk	
<b>Proposal:</b> Certificate of Lawful use/Development for housing development of the site.	
<b>Officer Recommendation:</b> Refuse	<b>Member decision (if applicable):</b> N/a
<b>Appeal Decision:</b> DISMISSED	<b>Costs:</b> N/a
<b>Summary:</b>	

Given the complexities of this appeal the decision notice is appended in full in <b>Appendix 2a.</b>
<b>Relevant Core Strategy Policies:</b> N/a
<b>Relevant NPPF Sections/Paragraphs:</b> N/a
<b>Learning Points/Actions:</b> N/a

**Sources:**

Sarah Ashurst – Development Management Manager

## Appeal Decision

Site visit made on 12 November 2018

**by K R Seward Solicitor**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 November 2018**

**Appeal Ref: APP/Y2620/X/18/3196579**

**Land known as 'Mattocks Field' between Heathfield Road and Warren Lane, High Kelling, Norfolk**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Colin Forster (Colimarc Construction Ltd) against the decision of North Norfolk District Council.
- The application Ref CL/17/0500, dated 28 March 2017, was refused by notice dated 19 December 2017
- The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
- The use for which a certificate of lawful use or development is sought is a housing development site.

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application and decision notice both give the address as "Warren Lane". In some documentation the same road is described as "Warren Road" which is how it is marked on the road sign. I have used the address given by the parties which is how it is most commonly appears in the historic files to which I refer.
3. I have utilised the description of development as given in the original application form, noting that the Council's decision notice refers instead to "residential development".
4. The decision was made on the basis of an existing use of land for residential development (i.e. section 191(1)(a)) whereas the application was made for existing building works (section 191(1)(b)). The land in question remains as a field and the application is for 'housing development'. I therefore queried with the appellant if the application should be treated as one for proposed operations under section 192(1)(b).
5. The appellant drew my attention to his Counsel's Opinion which advised him to apply under section 191 for a LDC "that the existing development, comprising the works of implementation were lawfully carried out". I shall determine the appeal on that basis. If a LDC were to be granted, the description could be modified under section 191(4) as necessary.

## Background

6. The appeal site is a field of approximately 8 acres. On 16 August 1966, Erpringham Rural District Council granted outline planning permission pursuant to reference E4811 for "for residential development at Warren Lane". On 30 January 1973 planning permission was granted under reference E6881 for the "layout of estate roads and 40 residential plots". The applicant seeks to establish that these two historic planning permissions for housing development were implemented and subsist.
7. An earlier application for a LDC in similar terms was refused by the Council on 6 April 2016. The application was re-submitted with further information. It is the Council's decision to refuse the later application which is appealed.

## Main Issue

8. The main issue is whether the Council's refusal to issue a LDC was well-founded. That turns on whether the appellant can demonstrate, on the balance of probabilities, that the 1966 and/or the 1973 permissions were lawfully implemented and subsist.

## Reasons

9. In order for a LDC to be granted under section 191 of the 1990 Act, the burden of proving relevant facts in this appeal rests firmly on the appellant, and the test of the evidence is the balance of probabilities.
10. In a LDC application the planning merits cannot be considered and the appeal must be determined solely on the basis of the lawfulness of the development applied for. That being so, arguments concerning the potential impacts of housing development on this site cannot be considered. Similarly, the appellant's grievances with the Council's handling of the application do not fall within my remit. They would need to be taken up with the Council separately.

### *The 1966 Permission*

11. When the 1966 permission was granted it was subject to two conditions. Condition 1 said "See attached schedule of conditions". Condition 2 said "The Local Planning Authority reserve for their subsequent decision the precise layout of the site which shall not make provision for any estate road junction with Warren Road."
12. The reasons for the Council's decision to grant permission for the development, subject to compliance with the conditions, were given as:
  1. *These conditions relate to the outline application only.*
  2. *Warren Road is of inadequate width to cater for any significant increase in traffic and to permit the traffic from the whole of the proposed development to discharge onto this road would be likely to result in conditions detrimental to the safety of highway users.*
18. No related schedule of conditions has been found. The appellant argues that the Council is the public repository of planning records and their completeness is not the responsibility of those members of the public consulting the files.
19. A Memorandum of 13 August 1966 from the County Planning Officer to the

Council Clerk contains the recommendation for E811 that "Permission be granted, subject to the normal conditions, and for the reasons applicable to an outline application and to the following additional conditions:-". It then sets out the text as it subsequently appears in Condition 2. This provides a clear steer that the schedule would have been the "normal conditions" whatever they might be. I find it implausible that no schedule at all was attached at the time of issue. The applicant would have had every reason to ensure the document received was complete in order to know what conditions must be discharged.

20. Without the schedule of conditions or any other indication of what those 'normal conditions' would be, I simply have no means of knowing how significant those conditions were and whether or not there was likely to have been compliance with them. It is clear on the face of the planning permission that other conditions were incorporated. They would not cease to apply just because the schedule cannot now be found. Moreover, the appellant has not been able to produce any written evidence of discharge of the conditions.
21. Condition 2 does not explicitly prohibit development until the precise layout was approved, but it raises the question of how development could be begun in accordance with the permission if those details were yet to be approved.
22. A location plan accompanied the application but there is no indication it was approved. If it was intended as the final layout there would appear to be no reason to impose condition 2. Furthermore, there was no mention of an approved plan or revised layout in subsequent correspondence from the appellant's agent when a layout was submitted for approval.
23. In an affidavit, the appellant Colin Forster explains how following a bricklayer apprenticeship he went to work for his father's building firm in 1960. In 1966, the landowner identified in the planning application was C.R. Mattocks. The appellant refers in his affidavit to how his father (C.W. Forster) got together with Mr and Mrs Mattocks, as co-owners, to make the application. They were represented at the time by a Chartered Surveyor and agent by the name of John B. Shrive.
24. In a letter dated 25 November 1966 addressed to the County Planning Officer, Mr Shrive wrote in relation to planning reference E4811 that he had prepared "a draft lay-out for residential development of the land in question". He requested "an informal indication as to whether this is likely to meet with the Council's approval".
25. On 29 November 1966 the County Planning Officer sent a copy of the "suggested layout" to the County Surveyor requesting preliminary observations. The County Surveyor responded on 22 December 1966 to say "I note that the layout indicates frontage development to Warren Road. I would refer you to my memoranda of 6<sup>th</sup> July when I intimated that I would raise objections to any layout giving vehicular access to Warren Road. I regret, therefore, that I cannot accept the layout proposed."
26. Mr Shrive was advised by the County Planning Officer on 23 December 1966 that the County Surveyor would not be prepared to support the layout suggested. He went on to say that "There would not, however, be any objection to a layout on the lines suggested in the plan which was sent to you earlier, provided the access to the dwellings is confined, as far as possible, to the proposed new



*estate road.*" Mr Shrive sent an acknowledgement noting the contents of the letter on 5 January 1967.

27. Clearly, the Council must have supplied a plan of a layout which was acceptable to it in principle, but the plan was expressed to be subject to the access arrangements. Various hand drawn plans are annotated 'suggested road layout', but there is no indication as to their status.
28. The appellant suggests that the various plans submitted by the agent would have been an attempt to maximise the benefits of the scheme. Having failed to do so it is submitted that it is more likely than not that he adopted and used the layout plan provided by officers. The appellant produces a copy plan and highlights that it is drawn to scale with a 'Northing' and contains the agent's details. It shows 34 plots and has no provision for any estate road junction with Warren Lane. The appellant points out that the only possible access was via Heathfield Road.
29. However, there is no evidence beyond mere supposition that this plan was ever approved. It is also entirely speculative that Mr Forster's Solicitor would not have completed his purchase of the site in April 1967 unless an acceptable layout was approved. This also does not appear to tally with accounts of what followed.
30. The appellant describes his father's attitude to planning start dates as always careful, promptly doing the necessary work to retain the planning permission in perpetuity for all sites. Having secured the outline planning permission, the appellant's father purchased the appeal site and with changes pending in the law, the appellant says that his father was concerned not to lose the permission.
31. During the 1960's the appellant explains that reliance was placed upon public professionals and their word, not paperwork and there was no such thing as a 'certificate of a start'.
32. The appellant engaged a Chartered Surveyor to produce a report in 2016 which describes how pending changes not only in the Town and Country Planning Act 1968 but also new development tax to be introduced by the Land Commission Act 1967 prompted urgent action by builders to get their sites started. The practice of the day was for officers of Local Planning authorities to witness starts to planning permissions. An inspection did not result in any paperwork.
33. This is verified in a witness statement from a retired town planner who was a trainee with Norwich City Council during the 1960's. He recalls the Planning Department being almost overrun with requests for planners to witness 'starts'. At that time, a 'start' might occasionally be noted down for internal use, but he describes it as an age when ones word was good enough.
34. Things may well have been done differently then, but that does not help the appellant discharge the burden of proof. Assumptions as to what happened are not enough.
35. When the 1966 permission was granted, section 21 of the Town and Country Planning Act 1962<sup>1</sup> stated that a grant of planning permission would enure for the benefit of the land. In other words, there would have been no need to commence development in order to keep the permission alive.

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<sup>1</sup> The Council incorrectly refers to the 1963 Act

36. That changed with the implementation of the Town and Country Planning Act 1968. If development had not been begun before the beginning of 1968, then the effect of section 66 of the Act was that the outline planning permission would be deemed to have been granted subject to time limit conditions.
37. In particular, application for any reserved matter approval would need to have been made not later than the expiration of three years beginning with the date of the commencement of section 66. Development would need to be begun not later than whichever is the later of (i) the expiration of five years from the date of the commencement of section 66 or (ii) 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.
38. For the purposes of section 66, development was taken to be begun on the earliest date on which any specified operation (as defined in section 64(3) of the Land Commission Act 1967) comprised in the development began to be carried out. The definition within section 64(3) is:
  - (a) any work of construction in the course of the erection of a building;
  - (b) the digging of a trench which is to contain foundations, or part of foundations, of a building;
  - (c) the laying of any underground main pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in the last preceding paragraph;
  - (d) any operation in the course of laying out or constructing a road or part of a road;
  - (e) any change in use of any land, where that change constitutes material development.
39. If the development was begun by a specified operation before the beginning of 1968 then the 1966 permission would have been implemented and not subject to the limitations of the 1968 Act.
40. Notwithstanding the missing schedule of conditions pertinent to condition 1, the appellant considers there is sufficient evidence of implementation of the 1966 permission in late 1967 by the specified operations listed below:
  - (1) removal of livestock from the poultry farm and bringing building materials on site.
  - (2) importing building materials.
  - (3) pegging out the site entrance road (and some plots) from Heathfield Road into the site in order to construct a minimum amount of the entrance
  - (4) minor construction to the entrance road.
41. Photographs are produced with a view to showing that groundworks materials and construction materials continued to be stored on site through 1968. Nevertheless, clearing the site and introducing materials in readiness for works as per (1) and (2) above does not fall within a category of 'specified operation'.
42. The appellant describes in his affidavit being involved in pegging out the site entrance and undertaking the first of many pegging out exercises that were re-

- done for each layout. He recalls a Council Officer inspecting and confirming the entrance 'start'. At one time it appears the Council did not recognise the name of the Officer who is now confirmed as a Clerk of Works. Later that same day, the appellant remembers Hubert Smith visiting the site.
43. Mr Smith was a lorry driver and construction plant operator for the firm from 1968 until 1991. In his statement he recalls visiting the appellant's father at the appeal site in 1967 to discuss possible employment with the firm. Mr Smith describes being reassured that the Heathfield Road site would offer employment stability having observed some plots and part of the road already pegged out.
44. Thus, there are consistent accounts that plots and an entrance road were pegged out. Indeed, the Council accepts the evidence of the appellant's Chartered Surveyor that, bearing in mind recognised building practices of the time, "*parts of the roadway and individual plots were physically pegged out prior to 1 January 1968*". That does not necessarily mean that a 'specified operation' had been carried out. There could be other reasons for those works, such as marketing purposes. A photograph of a board advertising building plots for sale said to be taken at the site is produced. It does not signify that the permission had been implemented. It simply indicates that building plots were available for sale at some point.
45. A 'company notebook' was kept in which all enquiries were entered about prospective purchases of any and all building plots and sites. Extracts are provided, but the entries are for the most part undated and unclear as to which site they refer. It supports the likelihood of plots being pegged out, but it does not follow automatically that there was approval of a site layout plan.
46. The Court of Appeal judgment in *Malvern Hills DC v SSE & Barnes and Co Ltd*<sup>2</sup> is authority that pegging the lines of part of a new estate road is sufficient to constitute "laying out" of a road.
47. Works in relation to buildings are addressed separately in the definition of 'specified operations'. Pegging out plots does not amount to work of construction, digging a trench or involve the foundations to suffice as a specified operation. However, the pegging out and works of construction for the entrance road *could* have been an operation in the course of laying out or constructing a road or part of a road. Not much is required in terms of physical works to trigger implementation.
48. Both parties cite the case of *East Dumbartonshire DC v Secretary of State for Scotland & Mactaggart Mickel Ltd*<sup>3</sup> which in relation to an equivalent provision within Scottish legislation held that the state of mind of the applicant is irrelevant as to whether development has started.
49. It is clear from *Malvern* that the test for commencement is not the amount of works undertaken, but whether the work was related to the planning permission involved. That is entirely objective. Even if the works were carried out solely to keep the planning permission alive, and with no intention to proceed, the works may still suffice to initiate the development comprised in the planning permission.

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<sup>2</sup> [1982] JPL 439

<sup>3</sup> [1999] 1 PLR 53

50. As the Council points out, it is the appellant's own case that the plots laid out in 1967 did not represent, and were not intended to represent, the layout that would be submitted to the Council for approval. Subsequent plans were submitted for approval.
51. In theory, development could be begun without approval of the layout plan. However, the works could only relate to the 1966 permission if they were in accordance with its terms. That must include the layout which was reserved for the Council's approval. Whilst the appellant maintains that the pegging out and other works for the site entrance were undertaken to keep the permission alive, that could only be so if it was consistent with the approved layout.
52. Correspondence on the County files confirms that in 1966 and 1967 the site layout was under discussion, but it falls well short of indicating that the layout was ever approved as required by condition 2. The appellant's case on this is not sufficiently clear and appears to be contradicted in later documentation.
53. From the accounts given, steps were being taken to market plots and the pegging out helped in that process. It does not necessarily mean that the site entrance was approved. Indeed, the documentary evidence appears inconsistent with the appellant's case on implementation, as set out below.
54. After the layout was discussed without any evidence of approval, the trail appears to go cold until an application was made for planning permission approval in 1970 for 39 plots and estate roads at the site. In the accompanying covering letter of 14 April 1970, the Chartered Architect acting as agent states "*I believe the Outline Planning permission for residential development was granted for this area several years ago but my client cannot trace his records of it.*" Had that permission been implemented then it seems somewhat odd why the appellant's father was unable to trace the details.
55. The appellant recalls being told by a Council Officer some years later and possibly in 1970 that the 1966 permission had not been properly started as kerbs had not been laid at the site entrance. The Officer was not one of the usual Council officials the firm dealt with. Whilst the appellant was surprised by this news, he and his father apparently felt compelled to accept the situation as they were attempting to obtain planning permission for further plots (i.e. the 1973 permission) and did not wish to challenge the Council in those circumstances.
56. As an explanation it does little to assist the appellant prove his case. I read nothing into the Council's reasons to suggest that works were started and abandoned. It merely notes that no challenge was made to the Council's decision that the 1967 works did not constitute a 'start' and the firm elected to proceed with another planning application.
57. Further reliance is placed by the appellant upon the analysis of aerial photography by an 'airphoto expert'. The report interprets the images in 1967 as land occupied by a low intensity open range poultry farm. The report goes on to say "*I don't detect anything that suggests a start to work in 1967. I see the possibility that something begins in 1969 but this evidence is not strong.*" Given the small amount of work involved to the entrance, the appellant says he is unsurprised by the works being undetectable from aerial images some 2 years later. The fact remains that the report does not support the appellant's claim of implementation in late 1967.

58. When planning permission was refused by the Council on 4 February 1997 for the erection of four houses and two affordable houses for rent, the current appellant brought an appeal. In the Appeal Decision of 8 December 1997, the Inspector remarked "*I am aware that permissions were granted for housing development on land including the appeal site in 1966 and 1973, but were not implemented.*" The Inspector was not making a finding of fact on those matters as it was not the issue before him. However, it is unlikely that the Inspector would have made those comments unless it reflected the information before him. It indicates the understanding of the parties at that time.
59. Ultimately, the appellant's evidence that development was begun is to my mind not sufficiently clear. It is contradicted by the 1997 Appeal Decision and there was no indication of a previous permission having been implemented when a further application was made in 1970. The evidence is also vague and uncertain over approval of the site layout plan for works undertaken to accord with approved details. Thus, there is a lack of clarity that a start in operations was undertaken pursuant to the 1966 permission. The absence of the schedule of conditions further presents a major gap in the documentary evidence. Even if works were undertaken pursuant to an approved layout, it is unknown if they were in breach of a condition precedent without knowing what conditions appeared in the missing schedule.
60. The appellant has not discharged the burden of proof to show on the balance of probabilities that the 1966 permission was implemented and subsists.

#### *The 1973 Permission*

61. Turning now to the 1973 permission. Outline permission was granted with details of the siting, design, external appearance and means of access reserved for future approval. Condition 1 said that "*No development whatsoever shall take place until full details of the siting, design, external appearance and means of access of that development have been submitted to and approved by the Local Planning Authority...*". Condition 3 required application for the approval of reserved matters within three years beginning with the date of the permission.
62. Condition 5 identified that the details required by condition 1 "shall include:-  
(a) Detailed drawings of the proposed dwellings, including full details of external materials, together with detailed drawings of the [proposed<sup>4</sup>] estate roads, including method of construction, sections and means of drainage thereof."  
Conditions (b) and (c) require submission of a tree planting scheme and details of screen walls and fences, respectively. Conditions 1 and 5 must therefore be read together.
63. Of the other conditions, condition number 6 required the length of Heathfield Road to be made up to the satisfaction of the Local Planning Authority "before any development on the application site is commenced." The reason for the condition was to safeguard the amenities of the adjoining dwellings.
64. The Council considers both conditions 1 and 6 to be conditions precedent so that any implementation of the 1973 permission could not lawfully be achieved due to non-compliance.
65. The appellant argues that the burden of proof passes to the Council to show, on the balance of probabilities, the implementation of the 1973 permission was in

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<sup>4</sup> Inserted by hand

breach of condition on the basis that it is for the asserter to prove. This misconstrues the position. The reasons for refusal set out in the Council's decision explain the legal argument for its contention that there would have been a breach of condition precedent. It is established law that the burden of proof is on the appellant in an LDC appeal. In bringing the appeal, the onus is thus on the appellant to overcome those grounds of refusal to show that the Council's decision was not well-founded.

66. In *F G Whitley & Sons v SSW and Clwyd CC*<sup>5</sup>, the Court of Appeal said that the only question to be asked was whether the development was permitted by the planning permission read together with its conditions. If the development contravenes the conditions it cannot be properly described as commencing that authorised by the permission. Thus, *Whitley* established the principle that development commenced in contravention of a condition is development without permission.
67. In subsequent cases, the Courts have applied the principle flexibly. The *Whitley* principle was considered further in *R (oao Hart Aggregates Ltd) v Hartlepool BC*<sup>6</sup>. It was held that a distinction had to be drawn between a condition which required some action to be undertaken before development is commenced, and a condition which expressly prohibits any development taking place before a particular requirement has been met. Mr Justice Sullivan took the view that it is necessary for the condition both to be expressly prohibitive of commencement of development and to go to the heart of the permission; only when both tests are satisfied is it a condition precedent to which the *Whitley* principle applies and there would be development without planning permission.
68. Thus, even if works were undertaken in pursuance of the 1973 permission, it would not be taken to have been implemented if such works were in breach of any condition precedent.
69. The subsequent Court of Appeal decision in *Greyfort Properties Ltd v SSCLG*<sup>7</sup> applied both the *Hart Aggregates* judgment and the principles set out in *Whitley*. It specifically endorsed the need for the condition to go to the "heart of the matter" to be a true condition precedent, but rejected the contention that only conditions that prohibited development before a particular matter was approved could be a condition precedent.
70. By stating that "*No development whatsoever shall take place...*" before details are submitted, it is absolutely clear that Condition 1 was prohibiting any development until details were approved. Moreover, the matters reserved are siting, design, external appearance and means of access which are clearly fundamental in nature to the scheme that was to be brought forward. Until details of the siting, design and external appearance were submitted it could not be known what the development would look like to ascertain if it was acceptable on amenity grounds. Without suitable access arrangements the housing scheme would be unviable and the need for road safety must be inherent. Those details would have been core to the delivery of the scheme. They most certainly go to the heart of the permission. It is plain to me that this was a condition precedent.
71. The appellant has submitted various documents to seek to establish that there

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<sup>5</sup> [1992] JPL 856

<sup>6</sup> [2005] EWHC 840 (Admin)

<sup>7</sup> [2011] EWCA Civ 908

was a start to the 1973 permission. They include affidavits from individuals who worked at the site or observed what was going on. It is undisputed by the Council that the site was pegged out. As before, this does not necessarily constitute a start of development by a specified operation nor do the entries in the company notebook. Indeed, it appears from the letter from Mr Thomas to the County Planning Officer in July 1972 that a plot was provisionally allocated to him before the 1973 permission was granted.

72. An application would need to have been made in respect of all the reserved matters. Whilst a wealth of documents are copied and I have read all of these, my attention has not been drawn to any specific documents which demonstrate that an application was made and approved for all the details required by condition 1. That is enough to defeat the appellant's application given my conclusion that it is a condition precedent.
73. The Council says that condition 5 goes to the heart of the permission also. The Council must mean condition 6 because its explanation concerns Heathfield Road which condition 6 required to be made up to adoption standard before commencement of development. According to the Council, the reason the application was held in abeyance and took so long to be determined was due to the need to resolve vehicular access to the site and for a deed to be entered into for the making up Heathfield Road. This is verified in a letter from the County Surveyor of 17 August 1972 explaining why the application had not been determined.
74. The Deed had been entered in May 1972 between C.W. Forster and the various resident owners of Heathfield Road whereby Mr Forster agreed to make up the road before 1 June 1973 in return for rights of way over the road. Condition 6 concerns the upgrade of Heathfield Road only. The appellant's evidence of Heathfield Road being resurfaced is supported by other witnesses. As advised by the appellant's own Counsel, such works would not comprise a specified operation as it did not form part of the development itself.
75. Condition 6 does not explicitly prohibit development taking place in the same way as condition 1, but it does require the length of Heathfield Road to be made up to the satisfaction of the Local Planning Authority *before any development on the application site is commenced*. The importance of Heathfield Road as a means of access of suitable standard is apparent from the communications with the local highway authority which is reflected in how the condition has been framed. It was pivotal to the decision to grant planning permission. As a matter of judgement, I consider there is cause to conclude that it is a condition precedent but it is of little consequence given my findings on condition 1 and more generally.
76. From the viewpoint of fairness, the appellant considers that the making up of over 130m of road for subsequent adoption should not defeat the appellant's case. Whilst I understand that sentiment, the issue I must determine is whether on the facts before me the permission was implemented without being in breach of condition precedent.
77. On 24 May 1978 North Norfolk District Council gave notice under the Public Health Acts of 1936 and 1961 that work at Heathfield Road had not commenced within the requisite 3 years from 31 January 1975. The plans deposited in accordance with Building Regulations were declared to be of no effect. The notice confirms that plans were submitted and passed for the purposes of Building

Regulations, but it does not verify that plans were submitted and approved for planning purposes. What it does firmly indicate is that the works for roads and sewers had not commenced. Leading Counsel for the appellant describes the 1978 Notice as "erroneous" as it conflicts with the witness accounts produced by the appellant.

78. An expert report is produced for the appellant of the private drain connections. It follows discovery of a manhole in Mattocks Field in which a stub pipe was installed to connect with the foul sewer. I was able to see the manhole on my site visit and a series of other manhole covers along Heathfield Road. Despite the legal advice obtained by the appellant, the laying of the pipe would not constitute a 'specified operation' under section 66 of the Town and Country Planning Act 1968 as it was not done for a building. The means of drainage required approval by condition 5. The report concludes that the private drain connection can only have been constructed after Heathfield Road was built to adoptable standard.
79. Even if that is so and there was compliance with condition 6, the issue remains that all the details specified in condition 1 needed to be subject to an application and approval. From the information produced there is no evidence that the Council gave approval to all the reserved matters. Thus, any works which might constitute a specified operation to begin the development were in breach of condition precedent.
80. In fact, there is strong documentary evidence confirming expiry of the permission.
81. On the Council's file is a letter responding to an enquiry from the 'Roads Committee of High Kelling', from the Chief Planning Officer dated 2 September 1976. It refers to the 1973 permission and states "*This permission has now time-expired..*". A similar response is given by the Chief Planning Officer to the occupier of Warren Farm on 21 September 1976 to say "*This permission was valid for three years only and has now time-expired...*".
82. Significantly, when a new planning application was made on 4 November 1976 by the appellant's father to develop the land with estate roads and 41 residential building plots, the accompanying letter addressed to the Chief Planning Officer of North Norfolk District Council<sup>8</sup>, headed up 'Renewal of Planning Permission for Residential Development at High Kelling, Norfolk W.47', said:-
- "I have been asked by my client to apply for renewal of the planning permission for the above development. This was originally granted on the 30<sup>th</sup> January, 1973 (County Ref. E6881) and expired at the beginning of this year. This was allowed to lapse partly due to the lack of demand for new houses and partly due to a misunderstanding by my client who thought he had three years from the approval of roads and sewers under the Building Regulation Act before he need commence work."*
83. This letter provides compelling evidence that the 1973 permission was not implemented. It was the clear understanding of both the applicant and the local planning authority that the permission had expired. This is reinforced in subsequent correspondence concerning the new scheme (reference 01/76/1614/0). Among the file is a letter dated 18 January 1977 from the Chief

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<sup>8</sup> Successor authority to the Erpingham Rural District Council



Planning Officer to the Clerk to Kelling Parish Council which says:

*"Perhaps it would be helpful to your Council if I explain the history of this site. Outline planning permission was granted for an identical application in January, 1973, and has since time expired under the three year rule."*

84. Similar comments were made in a letter from the Chief Planning Officer on 21 April 1977 that *"The application is, in fact, for renewal of the Outline Planning permission, reference E.6881, which was granted in January, 1973, and has now time expired."* Other handwritten notes on the file similarly refer to the permission as having lapsed.
85. When describing the planning history, the Inspector in the Appeal Decision of 8 December 1997 mentioned previously, refers to both the 1966 and 1973 permissions as 'not implemented'.
86. The Council has additionally provided a file of papers for a further outline planning application for the site (ref: 01/78/0510/0). Some of the copies are of poor quality and illegible, but notably when the planning application was submitted the agent's covering letter of 23 March 1978 said *"In 1973 our client was given Planning Consent to develop this land with 39 dwellings. Unfortunately, this consent expired before it was acted upon and a re-application in November 1976 was refused by the Norfolk County Council in 1977."*
87. The correspondence submitted on behalf of C.W. Forster from both the 1976 and 1978 planning applications could not be clearer that the 1973 application had expired. It directly conflicts and contradicts the arguments now being advanced. I find the culmination of all the documentary evidence to be highly persuasive that the 1973 permission had expired.
88. This correspondence does not appear to have been put before Queens Counsel who advised the appellant that there was sufficient cogent evidence of implementation of both permissions.
89. There is documentary evidence directly contradicting the appellant's case that the 1973 permission subsists. Moreover, on the materials before me I am not satisfied that any works of specified operations were carried out without being in breach of condition precedent. The appellant has failed to discharge the burden of proof to show on the balance of probabilities that the 1973 permission was implemented and subsists.

## **Conclusion**

90. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a housing development site was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

*KR Saward*

INSPECTOR