



NORTH
NORFOLK
DISTRICT
COUNCIL

Development Committee

Please contact: Linda Yarham

Please email: linda.yarham@north-norfolk.gov.uk Direct Dial: 01263 516019

TO REGISTER TO SPEAK PLEASE CALL 01263 516150

8 January 2019

A meeting of the **Development Committee** will be held in the **Council Chamber** at the Council Offices, Holt Road, Cromer on **Thursday 17 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 21 February 2019.**

PUBLIC SPEAKING – TELEPHONE REGISTRATION REQUIRED

Members of the public who wish to speak on applications are required to register by **9 am on Tuesday 15 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 may take photographs, film or audio-record the proceedings and report on the meeting. You must inform the Chairman if you wish to do so and must not disrupt the meeting. 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 Punchard, 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

Tel 01263 513811 **Fax** 01263 515042 **Minicom** 01263 516005

Email districtcouncil@north-norfolk.gov.uk **Web site** www.north-norfolk.gov.uk

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. ITEMS OF URGENT BUSINESS (to be taken under items 7 or 9 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.
4. 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.
5. 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.
6. 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) **BINHAM - PF/18/1524 - Proposed conversion of an agricultural barn to a dwelling; Westgate Barn, Warham Road, Binham, Fakenham, NR21 0DQ for Mr & Mrs Bruce**
Page 28
- (3) **CROMER - PF/18/1550 - Variation of conditions 3 and 4 of planning permission PF/17/2124 (Use of land for camping for 40 days consecutively/60 days cumulatively per year) to allow the land to be used for 5 caravans, 25 camper vans and 45 camping pitches and removal of reference to "tents only"; Beef Meadow, Hall Road, Cromer, NR27 9JG for Mr Cabbell-Manners**
Page 34
- (4) **FAKENHAM - ADV/18/1914 - Retention of illuminated fascia sign; Crown Hotel, 6 Market Place, Fakenham, NR21 9BP for Mr Cunningham**
Page 40
- (5) **FAKENHAM - LA/18/1967 - Installation of fascia sign (retrospective); The Crown Hotel, 6 Market Place, Fakenham, NR21 9BP for Mr Cunningham**
Page 43
- (6) **APPLICATIONS RECOMMENDED FOR A SITE INSPECTION**
Page 46
- (7) **DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE – QUARTER 3 2018/19**
Page 46
- (8) **NEW APPEALS**
Page 49
- (9) **INQUIRIES AND HEARINGS - PROGRESS**
Page 49
- (10) **WRITTEN REPRESENTATIONS APPEALS - IN HAND**
Page 49
- (11) **APPEAL DECISIONS – RESULTS AND SUMMARIES**
Page 50
(Appendix 2 – page 55; Appendix 2A – page 58)
- (12) **COURT CASES – PROGRESS AND RESULTS**
Page 50
7. **ANY OTHER URGENT BUSINESS AT THE DISCRETION OF THE CHAIRMAN AND AS PREVIOUSLY DETERMINED UNDER ITEM 3 ABOVE**
8. **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

9. **ANY OTHER URGENT EXEMPT BUSINESS AT THE DISCRETION OF THE CHAIRMAN AND AS PREVIOUSLY DETERMINED UNDER ITEM 3 ABOVE**
10. **TO CONSIDER ANY EXEMPT MATTERS ARISING FROM CONSIDERATION OF THE PUBLIC BUSINESS OF THE AGENDA**

**OFFICERS' REPORTS TO
DEVELOPMENT COMMITTEE - 17 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

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.

Site: Meditrina Park, Trinity Road, Fakenham

Note to Committee Members:

This item was deferred from the Development Committee meeting of 4 January 2019. This report has been updated where necessary, to reflect the submission of additional information, additional public comments received, changes to the recommended timescale of boundary fencing, and to outline the broad requirements of proposed planning conditions. Following a meeting between the applicant and case officers on 4 January any proposed changes to the list of recommended planning conditions will be provided to Members of the Development Committee in advance of the meeting.

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 | Approved |
| • 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) | CDE/15/1167 | Approved |
| • 17 (fencing) | CDE/15/1167 | Approved |
| • 18 (small mammal access) | CDE/15/1167 | Approved |
| • 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 both halves of the site will be subject to.

The full range of changes are listed below. These mostly affect the 66 dwellings of "Phase 3", which is a 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 Town Council considers the plans are not adequate for a design of this nature and scale and raises the following concerns:

- 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 public consultation period has been extended to Tuesday 15 January 2019, following receipt of additional information about site levels.

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

There have been 11 objections from local residents. The applicant has also 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.
- The proposed site levels and site section plans indicate an unwarranted high ground level of the proposed building. These proposed levels appear to be significantly higher than the existing ground levels of the site adjacent to Rudham Stile Lane.

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.
- The southern boundary fence should need to be 2.4m high above the car park level and be constructed with concrete posts and concrete gravel boards.
- The southern fence should be installed prior to occupation.
- No gate should be required within the new southern boundary fence because occasional maintenance of planting and the fence is easily accessible from Rudham Stile Lane with prior agreement from the landowning private residences.
- Installing any gate to Rudham Stile Lane creates a security risk to the residents of the lane.

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-bedroom dwellings in the area, all of which will be accessible housing. Policy HO 1 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. The proposed building's height has actually decreased overall from that previously permitted; the previous lift overrun (including above the southern gable) took the building to 12m tall, but removing that allows the building to retain the same 12m tall roofline across the rest of the building.

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.

Site levels -

The applicant has provided confirmation of their proposed site levels and building heights, and has attempted to illustrate the relationship of the building to neighbours on Rudham Stile Lane by using site sections. This cannot be considered entirely accurate given that the survey base plan has not been updated and the land and buildings south of the site boundary have not been surveyed for their levels, but the general relationship is considered acceptable.

The site conditions have not changed in the interim since the previous permission was granted, and within that development it was noted that the centre/southern parts of the site would need to be raised with material transferred from the western corner. Condition 2 of

the original permission required the former permission to use certain levels specified on an approved plan. With the obvious exception of the basement service road alongside Thorpland Road, these have not changed in this new proposal.

The site plan with levels shown confirms the building will generally be built at a level of 11.4m AOD (above ordnance datum) overall, and the site levels would gradually be graded southwards. The building's external ground level would be raised at most by 0.5m. To the south-east, in the area of parking adjacent to Rudham Stile Lane adjacent to the proposed southern boundary close board fence, the lowest existing land levels will be increased by between 0.5-1.1m, rising at the most extreme from 9.8m to 10.9m AOD. The southern boundary fence will be built on a gradually sloping level from 10.7m (east) rising to 11.4m (west).

A 2.4m tall close board fence along the southern boundary would provide screening to the front gardens and ground floor windows of neighbours along the lower Rudham Stile Lane, but this would be from the ground- and first-floors of the new flats only, not the uppermost second floor, so the tree planting along the southern boundary will still be required. In having regard to both the closer proximity of the building and the overall lower height, it has been considered that the impacts on amenity remain acceptable (as discussed below); as such the retention of the already-approved proposed levels for use in this revised proposal is considered to remain acceptable.

Along the west of the site, alongside Thorpland Road, the removal of the basement means the land levels can generally be retained as they currently are, although the building will sit c. 0.5m below the naturally-higher level of the Thorpland Road footpath. This has enabled the ground floor flats to benefit from a small private and enclosed garden facing the recently-constructed path. This is a better relationship to the surroundings, and will improve security to path users, provide a sense of activity and community, and will mean the existing mound of soil provided along the path will be removed.

Notwithstanding that the excavations for the development will not be as extensive as previously anticipated when a basement was proposed, it will still be necessary to retain Condition 2 to ensure the proposed levels are achieved, and to ensure that any imported material from offsite will remain inert.

3) Neighbouring amenity:

Building proximity –

The building's overall height has reduced slightly and generally remains the same across the building following the removal of the gable end lift shafts. However, 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 this development site boundary was originally approved as a chain-link fence proposal. A chain link fence as was previously indicated, 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 has moved closer to the boundary, and the site will still slope down to the south. 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, so a concrete gravel board cannot be assumed to be suitable. 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 security of this gate can be required by planning condition, and is very unlikely to present a risk to residents or neighbours if the condition details are adhered to.

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 not be reasonable to remove this access gate from the plans and expect the applicant to access the planted area from the private Rudham Stile Lane which they would not necessarily have permission to access.

It has been suggested that this fence and the planted hedge / tree line should be in place prior to the commencement of the construction of the flats, so that the landscaping has a chance to become established and to protect the neighbours from noise and disturbance during construction works. However, this is not considered reasonable and is unnecessary because alternative solutions are available, and could result in the fencing being damaged during construction. Given that the objective of the fencing would be to protect neighbours from noise and disturbance, and to protect the trees it is considered possible for some temporary solid hoardings to be installed along the line of the eventual close board fencing,

in line with the relevant British Standard for tree protection. The details of the hoarding and tree protection can be agreed within an amendment to the Construction Management Plan, either by condition or prior to the application's determination.

Construction disturbance –

The details within the applicant's Construction Traffic Management Plan (CTMP) as approved under Condition 23 of the previous permission includes proposed hours of construction work. 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. Whilst providing the development's final close board fencing before construction would be unreasonable, sufficient protection is possible by using hoardings. 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 updated Construction Management Plan.

The 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; it's 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 residential 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 this residential scheme's traffic impact will be much reduced, being spread across the day rather than a peak hour commuter impact which tends to occur with 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.

Bin store details for Phases 1 and 2 as constructed have been agreed, but the details of refuse stores within this amended Phase 3 will need to be agreed by new planning condition.

5) Landscape, Trees and Boundary treatments:

Southern boundary planting -

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 and at the back of properties on Holt Road. Having examined the approved plans of the previous permission it does appear that some hedging and trees has been removed to allow for a rear garden path behind the constructed properties, adjoining neighbours on Holt Road, and certain areas of hedging have not been replaced as was expected, but this can be required under the requirements of existing conditions and planning enforcement investigations.

All existing trees and hedges to be retained, including those along the southern boundary with Rudham Stile Lane, are to be protected under Condition 16 of the existing permission, which will be re-imposed on this amended scheme. If any trees are removed or damaged during construction, the condition prevents any trees being "topped, lopped, uprooted, felled or in any other way destroyed" within 10 years of the date of the permission, without first gaining the written consent of the Local Planning Authority, and any trees agreed to be necessary to be removed in those 10 years are required to be replaced.

There is also an existing and ongoing requirement for this tree line to be bolstered with new planting to provide effective screening. This is required by Condition 13 (southern boundary planting) of permission PF/15/1167; the planting has not yet been undertaken but once planted they will redress some of the losses incurred.

Planting plans -

Removing the basement and service road has also removed the need for changes in ground levels or mounding alongside Thorpland Road, and the recently submitted site levels plan has now confirmed 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 (plan 43A/C/07 rev A) to reflect the new layout, planting areas and retains the same general specifications, so it is appropriate for this amended proposal to use this new scheme and be required by conditions.

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.

It is considered prudent to ensure Conditions 12 and 13 are re-imposed and implemented effectively and at the earliest opportunity to provide successful planting, protection for the planting, and screening for neighbours. All new trees and hedges will also need to continue to be protected during the construction works with any damaged planting needing to be replaced (as per Condition 14 of PF/15/1167).

Condition 15 of original permission PF/15/1167 also required a scheme for the ongoing management and maintenance of the landscaping to be submitted which has been considered acceptable. It will be necessary for new conditions ensure this maintenance plan reflects the new soft landscaping proposals within plan 43A/C/07 rev A.

All outstanding landscaping matters previously required by conditions shall be amended and re-imposed on any new permission.

Boundaries -

Boundary treatments / fencing within Phases 1 and 2 of the development have been agreed under Conditions 17 and 18 of permission PF/15/1167, as 1.8m close board fencing, which are expected to include gaps for small mammal access. By and large these have been installed satisfactorily, and conditions will ensure they are retained as per the approved details.

Boundary treatments / fencing around the site perimeters varied in their original requirements in permission PF/15/1167, so only limited changes can be expected within this amended scheme.

The north-west boundary alongside Thorpland Road was previously anticipated to enclose the communal garden with close board fencing at the southwest corner, and remain open-view for residents of the new development, screened only by new planting. This is not proposed to change in the amended scheme. 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.

The eastern perimeter adjoining the Morrisons supermarket and service yard was approved to be retained as the existing chain link fencing; this is not a desirable boundary treatment and offers little screening to new residents, but there are no reasonable grounds to require alterations now.

The southern boundary comprises two sections: the land behind the gardens of neighbours at 163-167 Holt Road (Phase 1), and the land alongside Rudham Stile Lane (Phase 3). The Phase 1 area was originally permitted to remove some Scots Pines and other understorey growth along the common boundary to create room for a rear garden access path across the bottom of 5 of the 7 terrace houses of new Plots 15-21; this did not propose any new fencing along the boundary, only some replacement planting within the hedge where gaps were created. In a change to both the approved scheme and the proposed amended plans, the development has been built with the path across the rear of 6 gardens with access to all 7, but there is no boundary line other than a raised mound of soil beneath the neighbours' tree canopy, so there are unimpeded views through the neighbours' gardens. In practice, the applicant has installed a post-and-rail fence on the boundary but this offers no security or screening from users of the path, and it appears that any new hedging would have to be planted within the neighbours' garden rather than on the applicant's land to fill the gaps created.

As the impacts of this retrospective change have been to increase the use of the path and reduce the privacy to neighbouring gardens and living rooms, it is considered necessary to require the applicant to provide some form of new screening along the boundary of the path, and install the security gate at the path entrance as shown on the revised site plan. A change to the fence could include simply installing 1.8m lapped timber boarding to the post-and-rail structure, so is not considered onerous or unreasonable, and can be required by condition within two months of any permission being granted.

The Phase 1 southern boundary behind the wheelchair bungalow was not shown to include any fencing originally, with screening provided by filling gaps in the hedging. Nevertheless a c. 2.2m fence has been provided which is appropriate to both residents and neighbours.

The Phase 3 southern boundary to 1 Rudham Stile Lane will be covered by the same proposed close-board timber fence which will also run parallel to Rudham Stile Lane. This will prevent overlooking of that rear garden.

The Phase 3 southern boundary will run from the wheelchair bungalow in the east, all the way along the site parallel with Rudham Stile Lane as far as the boundary with The Barn to the west. The boundary is set c. 4m inside the site, retaining a c. 4m gap between the trees and hedges along Rudham Stile Lane and the parking and new communal gardens. This area will be planted as per the details on the revised Landscape Plan 43A/C.07 revision A, but the fence along this southern boundary will need to be agreed by new planning condition; it is recommended to be necessary to be 2.4m tall and close board fence with pedestrian-only access for maintenance.

To be consistent with the requirements of Condition 18, the new southern boundary fencing would be expected to include small mammal access or 'hedgehog holes' of a minimum 130x130mm dimension at intervals spaced at no more than 6m apart; in practice this may need to avoid using concrete gravel boards but the final details will be agreed by planning condition.

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 that 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, for use in the new planning permission, as below:

Existing condition on PF/15/1167	Recommendation	Reason to include / change in a new permission if resolved to approve.
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 compliance with the levels in the new site level plans 43/2018-P.200 Rev B (20.12.2018), and site sections plan 43/2018-SEC.02 (20.12.18).	Site levels have changed by removing the road and around the enlarged building footprint.
3. Retaining wall & works details TBC.	Remove	No longer a retaining wall in scheme now that the design of Phase 3 has changed.
4. Plant & machinery & extract detail TBC.	Re-impose.	Due to continued provision of café within Phase 3.
5. Any external lighting details TBC.	Re-impose.	Details remain outstanding for the whole site (all of Phases 1, 2 and 3).
6. 'Fat traps' on flats' café details TBC.	Re-impose.	Due to continued provision of café within Phase 3.
7. Surface water drainage scheme.	Re-impose for Phase 3.	Details need to reflect the new design.
8. Design of bins, sheds, greenhouses.	Re-impose for Phase 3.	To reflect the amended siting and designs of bin enclosures and outstanding details for the 66 flats.
9. Cycle stands and shelters TBC.	Re-impose for Phase 3.	Details remain outstanding for these features within Phase 3.
10. Downpipes & foul downpipes TBC.	Re-impose for Phase 3.	Details need to reflect the new design.
11. Juliette balconies.	Amend.	Require use as per details agreed on houses/flats in application CDD/15/1167.
12. Soft landscaping and planting scheme.	Amend.	(a) Phases 1 and 2 - require landscaping within 2 months, as per details shown within landscape plan 43A/C.07 (as approved in application CDB/15/1167). (a) Phase 3 - require landscaping prior to first occupation of the 66 flats, as per details shown within landscape plan 43A/C.07 Revision A.
13. Southern boundary planting required.	Amend.	To be planted and protected prior to commencement of construction beyond damp proof course level of the 66 flats, as per details shown within landscape plan 43A/C.07 Revision A.
NEW – scheme for the northwestern boundary hedges to be restored and planted with an improved woodland belt along Thorpland Road.	New	To address the recently-created gap.
14. If new tree & shrub replacements fail, within 10 years from date of planting they shall be replaced.	Re-impose.	To continue to apply across the whole site.

15. To continue to manage and maintain landscaping as per a 10 year landscape management plan.	Amend.	Require use as per details agreed in application CDE/15/1167 and to reflect landscaping plan 43A/C.07 Revision A.
16. Protect & retain existing trees for 10 years from the date of the permission.	Amend.	Trees along the east and south boundaries from Phases 1 and 2 to be retained for 10 years from the date of the existing permission. Trees along Thorpland Road and Rudham Stile Lane in Phase 3 to be retained for 10 years from the date of the new permission. There shall be no construction access taken from Rudham Stile Lane or Thorpland Road.
17. Fencing	Amend.	Fencing to be provided around Phases 1 and 2 as per the details approved within application CDE/15/1167, and to be retained thereafter.
NEW – Fencing within Phase 3. Fencing for around Phase 3 to be agreed, and to be installed along the southern boundary prior to commencement of groundworks within Phase 3, and the remainder prior to occupation. Design details to include the southern boundary having a 2.4m height close boarded fence, with a pedestrian-only secure maintenance gate, and to include small mammal access in fencing, of a minimum 130x130mm dimension and spaced at intervals of no more than 6m apart.	New	The change is needed to reflect new designs and account for changes in building footprint and the need for access for maintenance.
NEW – Fencing to be installed within Phase 1 along the rear garden path, to screen the rear gardens of 163-167 Holt Road, and the secure access gate to be provided.	New	To provide a 1.8m timber fence screen and the security gate to the garden path within 2 months of this permission.
18. Provide small mammal gaps in fences.	Remove.	Details for Phases 1 and 2 have been agreed within application CDE/15/1167; Phase 3 to be agreed by Condition 17.
19. Building materials.	Amend.	Require use of the same materials in the 66 flats as per those agreed for Phases 1 and 2 within application CDA/15/1167.
20. No enlargement of the wheelchair bungalow to be allowed through Permitted Development.	Re-impose.	To continue to retain the amenity of neighbours and sufficient garden space,
21. Two fire hydrants to be provided.	Amend.	Hydrants need to be maintained and retained as per the details already approved in application CDC/15/1167.
22. All accesses, turning area etc needed.	Amend.	Access to the Phase 3 flats and the turning area to be provided and made available prior to occupation of the flats.
NEW – Car parking allocations proposals to be agreed prior to the 66 flats' first occupation.	New	To ensure the different types and uses of parking spaces are available and signed.
23. Construction traffic management plan.	Amend.	Require use of the same details for the 66 flats as per those agreed for Phases 1 and 2 within application CDB/15/1167,

		whilst reiterating the working and delivery hours within the same plan.
24. Work to allow access to the site for a NCC-appointed archaeologist.	Re-impose.	To ensure any archaeological value is available to be noted during construction.
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.	Re-impose.	To ensure the public benefits of the proposal continue to outweigh the loss of employment land and ensure occupancy takes place as per the intended purpose.

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:

- (ii) 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;
- (i) (if not already provided before the planning committee meeting) Submission and agreement of an Amended Construction Management Plan detailing the proposed tree protection measures and solid site hoardings for the southern boundary, to be used during construction.
- (ii) The range of summarised conditions as listed below; and,
- (iii) Any additional conditions as may be considered necessary by the Head of Planning.

Conditions:

Members will be updated on precise details of the conditions at the meeting.

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) **BINHAM - PF/18/1524** - Proposed conversion of an agricultural barn to a dwelling; Westgate Barn, Warham Road, Binham, Fakenham, NR21 0DQ for Mr & Mrs Bruce

Minor Development

- Target Date: 27 November 2018

Case Officer: Mr G Linder

Full Planning Permission

CONSTRAINTS

Countryside

Conservation Area

RELEVANT PLANNING HISTORY

PU/15/1249 PUA

Barn at Westgate Farm East, Warham Road, Binham, Norfolk

Prior notification of intention to convert agricultural building to a dwelling (C3)

Approval - Prior Approval Given 15/10/2015

PF/15/1748 PF

2 Westgate Barns, Warham Road, Binham, FAKENHAM, NR21 0DQ

Conversion of single storey agricultural barn to one dwelling - Approved 01/02/2016

PF/18/0921 PF

2 Westgate Barns, Warham Road, Binham, FAKENHAM, NR21 0DQ

Variation of condition 2 (approved plans) of planning permission PF/15/1748 to allow for changes to position of openings, internal walls and corrections to size and position of building - Approved 12/07/2018

THE APPLICATION

Seeks permission to convert and extend a traditional single storey "U" shaped barn in order to create a three bedroom dwelling with attached double cart shed garage / store shed.

Access to the site would be via the existing driveway off the Warham Road.

REASONS FOR REFERRAL TO COMMITTEE

At the request of Councillor Vincent Fitzpatrick who considers that the application complies with Development plan policy.

PARISH/TOWN COUNCIL

Binham Parish Council - No response

REPRESENTATIONS

None received

CONSULTATIONS

Conservation and Design Officer – Objects - Due to the number of new window openings and the new build elements this latest conversion scheme would fail to respect the simple character and utilitarian appearance of the host building.

Environmental Health - No objection subject to the inclusion of an advisory note on any permission relating to contaminated land / asbestos.

Landscape Officer - Awaiting response

County Council (Highway) - Cromer – No objection subject to the imposition of appropriate conditions

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):

Policy SS 1: Spatial Strategy for North Norfolk

Policy SS2: Development in the Countryside

Policy HO9: Conversion and re-use of rural buildings as dwellings

Policy EN 4: Design

Policy EN 8: Protecting and enhancing the historic environment

Policy CT 5: The transport impact on new development

Policy CT 6: Parking provision

Nation Planning Policy Framework (NPPF): 2018:

Section 5. Delivering a sufficient supply of homes

Section 12. Achieving well-designed places

Section 16. Conserving and enhancing the historic environment

MAIN ISSUES FOR CONSIDERATION

1. Principle of development
2. Design
3. Heritage
4. Amenity
5. Highways

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, are 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 to support the rural economy, meet affordable housing needs and provide renewable energy. The types of development acceptable in principle in designated Countryside are listed under policy SS 2 and includes the re-use and adaptation of buildings for appropriate purposes.

This is expanded upon in policy HO9 which states that the conversion of a buildings in the countryside to residential use will only be permitted where the building meets the specified criteria including but not limited to that the building is soundly built and suitable for the proposed use without complete or substantial rebuilding and/or extension (including garages and other outbuildings). The re-use of buildings requiring complete or substantial rebuilding and/or extension (including garages and other outbuildings) will be treated as 'new build' and considered against other policies contained elsewhere in the Core Strategy. The policy also requires that the building does not have a substantially adverse landscape impact and the building's form, bulk and general design are in keeping with its surroundings, or if the building has a substantially adverse landscape impact the proposal would represent a significant improvement in its external appearance and setting.

In addition, paragraph 79 of the National Planning Policy Framework is also relevant. This states that planning decisions should avoid the development of isolated homes in the countryside unless certain specified circumstances apply. One of these such circumstances is where 'the development would re-use redundant or disused buildings and enhance its immediate setting'.

Prior notification of the intention to convert the barn to a dwelling was approved by the Local Planning Authority in October 2015 and this was followed by planning application PF/15/1748 to allow conversion of the barn to a dwelling, which was approved in February 2016. In 2018 a further application was received (PF/18/0921) seeking changes to the 2015 permission including the position of openings, internal walls and corrections to size and position of building. This was approved in July 2018 with a three year implementation period. As such there is a valid permission to convert the barn which could be implemented subject to the discharge of any pre commencement conditions.

The scheme approved in July 2018 was based on the original footprint of the building which has a floor area of some 150 sq. metres and involves the conversion of the barn to a three bedroom dwelling with lounge, dining room, separate kitchen and three bathrooms.

In comparison the scheme as proposed and for consideration by Members, would involve infilling the open courtyard to the southern elevation and a new extension to the north eastern corner, which combined would have a floor area of some 140 sq. metres making a total floor area of 290 sq. metres.

As a result of comparison to the approved scheme there would be a net increase in floor area of some 140 sq. metres, which represents nearly a one hundred percent increase in the size of the building which is considered to be contrary to the aims of policy HO9. Furthermore, as a result of the increased floorspace, the building's form, bulk and general design, would not be considered to be in keeping with its surroundings.

It is therefore considered that in principle the scheme as proposed would fail to accord with the requirements of policy SS2, and HO9 of the Core Strategy.

2. Design

As the present time the barn is a simple 'U' shaped form building with walls primarily of horizontal timber boarding under a clay pantile roof. The only exception being the two south facing gables which are of a weathered concrete block construction.

The scheme as proposed would involve the infilling of the courtyard to the southern elevation with a flat roofed extension, with a large glazed lantern light which would provide a dining / sitting room. This would connect the two south facing wings to either side which would serve a kitchen, snug and hall. It is proposed that the gables to the outer wings would be reconstructed in facing brick as would the southern wall of the flat roofed extension. In addition, a new wing is proposed projecting out in a northerly direction from the north eastern corner of the barn. This would contain a bathroom, plant room double cart shed garage and store, and would be clad in horizontal boarding. In comparison to the rest of the barn, which has an eaves height of some 2.5 metres and ridge height of 4.7 metres, the garage /store, would be some 10 metres in length, with an eaves height of 3.0 metres and ridge of 5.8 metres.

It is therefore considered that due to its scale, massing and location the garage / store would be out of scale with the rest of the barn and would dominate views of the building when approaching along the access driveway off the Warham Road. Similarly, although only visible from surrounding countryside, the infilling of the open courtyard to the southern elevation would significantly alter the form, character and appearance of the original barn. In particular the reconstruction of the gables in brick together with the brickwork and extent of glazing to the flat roofed extension, combined with the glazed lantern would give this elevation a very domestic appearance with the building being more akin to a modern bungalow than a converted barn.

The domestication and loss of character of the barn is further exacerbated with the choice of windows. As previously approved the scheme of conversion not only respected the character and appearance of the original barn but where glazing was required this was simple in form and utilised existing openings. The only exception to this being the introduction of two roof lights to the outer roof slopes of the two wings.

In comparison, the scheme as proposed has totally ignored the original openings with additional windows being introduced, not to retain the character and appearance of the building but to serve the internal layout. Furthermore, the windows as proposed are small, square single pane either dotted along an elevation or set in horizontal rows of three or four windows. It is considered that the style, form and overall appearance of such windows are totally inappropriate for a building of this nature, and would only serve to further accentuate the domestic appearance of the building.

It is therefore considered that the overall scheme of conversion due to its form and external appearance would fail to comply with the requirements of policy EN4 which requires that extensions and alterations to existing buildings and structures will be expected to be suitably designed for the context within which they are set and ensure that the scale and massing of

buildings relate sympathetically to the surrounding area. Furthermore it should have regard to the North Norfolk Design Guide, in particular Section 7 - Conversions, which suggests that schemes of conversion should minimise the number of new openings and avoid any works which rob the building of its architectural feature and interest.

3. Heritage

Although the barn itself is not within the Binham conservation area the northern part of the garden and driveway is within the designated area. There are limited views of the barn when looking south from the access onto the Warham Road. Furthermore, being set in the open landscape to the south of the ribbon development along the Warham Road the barn is seen against the backdrop of the conservation area to the north from the surrounding countryside.

Development Committee is required by Sections 66 (1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act 1990) to have special regard to the “desirability of preserving” the character and appearance of conservation areas. This means that the desirability of preserving the setting of and character and appearance of conservation areas is not merely a material consideration to which appropriate planning weight can be attached, but it is a legal obligation to have ‘special regard’ or pay ‘special attention’ to these matters. When a local authority finds that a proposed development would harm these matters, it must give that harm considerable importance and weight as a matter of law. There is effectively a statutory presumption against planning permission being granted where such harm arises. That presumption can, however, be outweighed by material considerations, including the public benefits of a proposal.

Development Committee should also take into account the advice contained within the National Planning Policy Framework (NPPF), which specifically addresses the need for conserving and enhancing the historic environment, in particular paragraph 193, which states:

‘When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be)...’

Paragraph 196 goes on to state: *‘Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use’.*

Considerable weight must therefore be given to the preservation of heritage assets including their setting.

In considering development proposals affecting heritage assets, Core Strategy Policy EN 8 sets out that *‘the character and appearance of conservation areas will be preserved and where possible enhanced’*. However, this element of Core Strategy Policy EN 8 is now out of step with the guidance set out in the NPPF which is more permissive towards allowing development affecting heritage assets but only where there are clear and convincing public benefits in favour, and in accordance with the statutory requirements set out above.

The NPPF defines setting of a heritage asset as the surroundings in which it is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, and may affect the ability to appreciate the significance or may be neutral. Significance is defined as the value of a heritage asset to this and future generations because of its heritage interest. Significance derives not only from a heritage asset’s physical presence, but also from its setting.

Whilst the alterations to the barn proposed could not be seen to result in “less than substantial harm”, to the significance of the heritage asset, as referred to in the NPPF the latest conversion scheme would fail to respect the simple character and utilitarian appearance of the host building and it turn could not be seen to preserve or enhance the character and appearance of the wider Binham conservation area.

4. Amenity

Due to its location being set some 50 metres from the Warham Road it is not considered that the scheme as proposed would give rise to any amenity issues in respect of the neighbouring properties in terms of potential overlooking or loss of light.

5. Highways

The Highway Authority has indicated that the revised scheme does not raise any issues in terms of highway safety.

RECOMMENDATION:

Refuse planning permission on the following grounds:

The District Council adopted the North Norfolk Core Strategy on 24 September 2008, and subsequently adopted Policy HO9 on 23 February 2011, for all planning purposes. The following policy statements are considered relevant to the proposed development:

Policy SS 1: Spatial Strategy for North Norfolk

Policy SS2: Development in the Countryside

HO9: Conversion and Re-Use of Rural Buildings as Dwellings

Policy EN 4: Design

Policy EN 8: Protecting and enhancing the historic environment

Policy CT 5: The transport impact on new development

National Planning Policy Framework

Paragraphs 79 and 193

In the opinion of the Local Planning Authority the proposed scheme of conversion, due to the extent of new build, would result in a significant increase in the scale and massing of host building which would which fail to protect or enhance the character and appearance of the building and its setting.

Furthermore, due to its form, bulk, general design and number and appearance of the new window openings, the proposed conversion scheme would fail to respect the simple character and utilitarian appearance of the host building.

The proposal is therefore contrary to the above Development Plan policies.

- (3) **CROMER - PF/18/1550 - Variation of conditions 3 and 4 of planning permission PF/17/2124 (Use of land for camping for 40 days consecutively/60 days cumulatively per year) to allow the land to be used for 5 caravans, 25 camper vans and 45 camping pitches and removal of reference to "tents only"; Beef Meadow, Hall Road, Cromer, NR27 9JG for Mr Cabbell-Manners**

Target Date: 17 October 2018

Case Officer: Mrs S Ashurst

Full Planning Permission

CONSTRAINTS

EA Risk of Flooding from Surface Water 1 in 1000

EA Risk of Flooding from Surface Water 1 in 30

EA Risk of Flooding from Surface Water 1 in 100

SFRA - Risk of Flooding from Surface Water + CC

Mineral Safeguard Area

Undeveloped Coast

LDF – Countryside

LDF Tourism Asset Zone

Unclassified Road

RELEVANT PLANNING HISTORY for Beef Meadow, Hall Road, Cromer, NR27 9JG

PF/17/1113 PF

Beef Meadow, Hall Road, Cromer, Norfolk, NR27 9JG

Change of use of agricultural use to mixed use of agricultural and caravan & camping site for 40 days consecutively and 60 days cumulatively

Withdrawn - Invalid 12/09/2017

PF/17/2124 PF

Beef Meadow, Hall Road, CROMER, NR27 9JG

Use of land for camping for 40 days consecutively and not more than 60 days cumulatively per calendar year

Approved 25/07/2018

THE APPLICATION

The application proposes the use of the land for camping for not more than 40 days consecutively and not more than 60 days cumulatively in any one calendar year as proposed under the original permission PF/17/2124. However, this application also seeks to vary the conditions of the original permission to vary the provision of the accommodation. Application PF/17/2124 was limited to tent only accommodation. This application seeks to vary condition 3 of the original permission to allow for 5 caravan pitches, 25 camper van pitches and 45 tent pitches. In addition, condition 4 is also proposed to be varied to remove the reference to "tents only". In addition to the caravan, camper van and tent accommodation there would be provision of basic facilities including temporary WCs/showers/wash area, office and small fenced waste compound.

The site was used for camping in 2017 (incorporating 100 pitches in total) under the 28 day allowance contained within Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

REASONS FOR REFERRAL TO COMMITTEE

At the request of Cllr A Yiasimi and Cllr H Cox due to the potential economic benefits of the development proposals on the local and surrounding economy.

PARISH/TOWN COUNCIL

Cromer Town Council - Support

- The access is sufficient and no problems have been reported.
- The increase in camping is having a positive impact on the economy of the town centre.
- An increase in pedestrian movements from campsites into town this year has been noted.
- The mitigation measures proposed for the protection of bats are appropriate.

REPRESENTATIONS

None received.

CONSULTATIONS

Environmental Health – No objections.

Landscape Officer – Object on grounds of landscape impact, impact on the undeveloped coast and AONB. If approved, ecological conditions from the previous permission should be enforced and the accommodation should be contained within the red line.

County Council (Highway) (Cromer) – Object on grounds of detrimental impact on the free flow of traffic on the surrounding highway network and highway safety, specifically with regard to the use of the site by towed caravans. A condition cannot be suitably drafted to meet the tests as set out in the NPPF to restrict the use of the site to camper vans , excluding motorhomes and larger RVs, as such an objection remains on the basis of highway safety in regard to these vehicle types as well. Whilst the point of access is acceptable in relation to its visibility requirements, the access is presently steep and narrow and would require improvements, so that two vehicles could pass within it for it to be ultimately viewed as being acceptable.

The site has good footway links back to the town centre which is good for sustainable transport considerations. However given the access limitations, road widths and alignment, and that without suitable restriction larger RV's and Motorhomes would be able to access the site, which would have the same effect as a towed caravan upon the road network, the site is not suitable for the use being sought.

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):

SS2 – Development in the Countryside

EN1 – Norfolk Coast Area of Outstanding Natural Beauty

EN2 – Protection and Enhancement of landscape and settlement character

EN3 – Undeveloped Coast

EN8 – Protection and Enhancement of the Historic Environment

EN9 – Biodiversity and Geology

EC10 – Static and Touring Caravans and Camping Sites

CT5 – Transport impact of new development

CT6 – Parking Provision

National Planning Policy Framework (July 2018)

Section 6 – Building a strong competitive economy

Section 9 – Promoting Sustainable Transport

Section 12 – Achieving well designed places

Section 15 – Conserving and enhancing the natural environment

Section 16 – Conserving and enhancing the historic environment

MAIN ISSUES FOR CONSIDERATION

1. Principle, landscape impact and economic benefits
2. Highways
3. Biodiversity
4. Heritage
5. Amenity
6. Environmental considerations

APPRAISAL

1. Principle, landscape impact and economic benefits (Policies SS2, EN1, EN3 and EC10)

The principle of the development proposed has been accepted under the previous planning permission (PF/17/2124). The site lies within the designated Countryside policy area of North Norfolk, as defined in policy SS2 of the adopted Core Strategy where the principle of new tourism accommodation is accepted subject to compliance with other relevant Core Strategy policies.

The previous application was determined by Development Committee on 17 May 2018. At that time, despite the failure of the proposals to accord with several policies of the Development Plan, namely policies EN1, EN2, EN3 and EC10, the economic benefits of the proposals were considered to outweigh the harm to landscape, the AONB, and the Undeveloped Coast.

The principle of land use has been established under the previous application. However, the current proposals introduce an unacceptable and increased level of harm to the landscape, AONB and undeveloped coast through the introduction of camper vans and caravans. These additional elements are considered to be unacceptably jarring elements in this sensitive rural landscape and will establish a significant and greater form of development in this undeveloped coast location. It is also considered that there will be some additional impacts associated with increased numbers of larger motor vehicles using Hall Road to access the site as a result of the proposal, which will have unacceptable impacts upon the tranquillity of the AONB.

Members will need to consider whether the additional impacts from the amended development are still demonstrably outweighed by the positive economic benefits to the local tourist industry; the attraction of tourists to Cromer and associated spending within the Town Centre and nearby resorts and attractions, when making a decision.

2. Highways (Policies CT5 and CT6)

The previous application which was approved saw the removal of caravans from the development proposals in order to remove the objection of the Local Highway Authority (LHA). The application before Members now seeks the variation to conditions 3 and 4 of the original permission to include caravans and camper vans in the proposals, as a result of which there is an objection from the LHA.

The initial response of the LHA advised that the highway network to the west of the site (Hall Road and Metton Road) are not suitable for caravans due to their poor alignment, restricted width, lack of passing provision and poor visibility at their respective highway junctions with the B1346. This position remains unchanged.

The objection from the LHA is on the basis of the detrimental impact of the proposals, including the use of the site by caravans and camper vans, on the free flow of traffic on the surrounding highway network, specifically the unclassified roads of Hall Road and Metton Road to the west and resulting highway safety. Both roads are poorly aligned, have a restricted width and lack of suitable passing provision for such vehicles. In addition, both have poor visibility at their junctions with the B1346. As such the proposals are considered to be contrary to the aims of policy CT5 of the Development Plan which seeks to ensure that the expected nature and volume of traffic generated by the development proposal can be accommodated by the existing road network without detriment to highway safety.

Parking is easily achieved within the site and the proposals are considered to be in accordance with the aims of policy CT6.

3. Biodiversity (Policy EN9)

The original planning application was accompanied by a Protected Species Survey, the conclusion of which suggested that there would be limited impact upon Protected Species, including bats. The submitted report concluded that although the site itself has limited potential for foraging, the surrounding woodland edge has the potential for bat roosts and flyways and that it is highly likely that bats fly over the site and use the southern boundary area for foraging. The Protected Species Survey further concludes that the site is not part of a significant connective route to foraging areas although the habitats immediately surrounding the site are also likely foraging and flyway routes.

Officers were of the opinion that the Protected Species Survey's conclusions were unsubstantiated by activity surveys with insufficient quantifiable evidence to sufficiently conclude that the proposed development would not have a detrimental impact upon bats, in particular in relation to foraging and commuting routes. The night-time activity associated with people/vehicles/lighting etc on the site has the potential to adversely impact on bats and their habitats and foraging routes. As such, in the absence of evidence to establish the significance of the impact, the proposed development fails to satisfy the requirements of Policy EN 9.

At the time of the approval of the original planning application, Members considered that a condition requiring additional Bat Monitoring Surveys would address the issue and provide certainty of the implications for bats. Condition 7 of permission PF/17/2124 required the following:

Within 3 months of the date of this decision, a Bat Monitoring Strategy shall have been submitted to the Local Planning Authority, which will then be assessed and approved in writing in a timely manner. The purpose of the monitoring strategy shall be to monitor whether the mitigation measures, secured under condition 6 of this permission, are adequate, and to record the bat populations relevant to the site. The monitoring strategy shall include:

- a) Aims and objectives of monitoring to match the stated purpose;*
- b) Identification of adequate baseline conditions prior to the first use of the development;*
- c) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged;*
- d) Methods for data gathering and analysis, which will include;
 - i) Location of monitoring;*
 - ii) Timing and duration of monitoring;*
 - iii) Responsible persons and lines of communication; and**
- e) Review and publication of results and outcomes.*

A report describing the results of monitoring shall be submitted to the Local Planning Authority at intervals identified in the strategy. Where the results from monitoring show that aims and objectives are not being met, the report shall also set out how contingencies and/or remedial action will be identified, agreed with the Local Planning Authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The monitoring strategy will be implemented in accordance with the approved details.

Reason:

To further monitor, and mitigate, the potential impact of the development upon protected species, in accordance with Policy EN 9 of the adopted North Norfolk Core Strategy.

The same documents as submitted under the previous planning application including the Protected Species Report were re submitted with the current application. However, the additional Bat Monitoring Strategy required by condition 7 of the previous permission has not been submitted with this application. If Members are minded to approve the application the same condition would need to be applied to any such permission, allowing for additional time to take into account the limited survey times for bats. In the absence of this evidence the proposed development fails to satisfy the requirements of Policy EN9.

4. Heritage

The site lies within the wider landscape setting of the Grade II* Listed Cromer Hall to the west, with the Historic Park and Garden bordering the site to the west and north. Although there is a significant degree of separation between the hall and proposed site, it is not considered that the type of development proposed is in-keeping with its immediate surroundings and as such, will result in less than substantial harm to the setting of the Listed Building, though this harm is considered to be of the very lowest level. Where less than substantial harm is identified, development can only be accepted where public benefits are identified and are considered to outweigh the level of harm. In this particular case, when making a decision on the application, Members should consider whether the potential economic benefits will outweigh the harm to the designated heritage asset.

5. Amenity (Policy EN4)

The site lies approx. 150-200m from the nearest residential dwellings to the north and east, with significant woodland in-between. Given this, and the limited use of the site for not more than 60 days in any 12 month period, it is considered that the proposed development would

not have a significantly adverse impact upon residential amenity in terms of noise and disturbance.

6. Environmental Considerations (Policy EN13)

The proposed drainage arrangements for the site, making use of soakaways and connection of the proposed on-site facilities to the mains sewer are acceptable.

Conclusion

When making a decision, the Development Committee will need to make a clear assessment of the “Planning Balance” as it pertains to this proposal.

The benefits of the proposal are as follows:

- the potential positive economic impact upon the town of Cromer and surrounding areas,

The harm arising from the proposal to include caravans and camper vans in the accommodation mix can be summarised as follows:

- harm to the free flow of traffic on the existing road network and resulting impact on highway safety;
- harm to the character of the undeveloped coast as protected by Policy EN 3;
- the localised harm to the landscape from tented, caravan and camper van accommodation on a highly visible site;
- the wider landscape impact;
- potential visitor pressure upon the adjacent AONB, and;
- the impact upon the foraging routes of bats, the potential harm to which has not been satisfactorily ruled out.

Officers consider that the harm identified outweighs the benefits of the proposal and as such the recommendation is to refuse the application in accordance with adopted planning policies and the National Planning Policy Framework.

RECOMMENDATION:

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:

CT 5 – Transport impact of new development
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 9 - Biodiversity and geology
EC 10 - Static and touring caravan and camping sites

The National Planning Policy Framework (NPPF) (published July 2018) is also material to the determination of the application. The following sections are considered relevant:

Section 9 – Promoting Sustainable Transport
Section 15 – Conserving and enhancing the natural environment

The unclassified roads of Hall Road and Metton Road to the west serving the site is considered to be inadequate to serve the development proposed, by reason of its poor alignment / restricted width / lack of passing provision restricted visibility at adjacent road junctions. The proposal, if permitted, would be likely to give rise to conditions detrimental to highway safety contrary to Policy CT 5 of the Core Strategy and Paragraph 108 of the NPPF.

The site lies within an area designated as Undeveloped Coast where new touring caravan and camping sites are not permitted under Core Strategy Policy EC 10. It is considered that the proposed development does not require a coastal location and would be detrimental to the distinctive open coastal character of the designated Undeveloped Coast, contrary to Policy EN 3 of the Core Strategy and Paragraph 114 of the NPPF.

Furthermore, the proposed development would erode the sense of remoteness and tranquillity of the location and, as a result, would have an adverse impact upon the setting of the adjacent Area of Outstanding Natural Beauty (AONB) contrary to Policy EN 1. It has not been adequately demonstrated that the proposed development could not be located on alternative sites, nor is it considered that the benefits of the development outweigh the harm. In addition, the proposed development would be detrimental to the identified 'Wooded with Parkland' local landscape character and setting of the adjacent Historic Park and Garden, contrary to Policy EN 2.

Finally, it has not been sufficiently demonstrated that the proposed development would not have an adverse impact upon Protected Species, specifically in relation to the foraging routes of bats, contrary to Policy EN 9 of the Core Strategy and paragraph 118 of the NPPF.

(4) **FAKENHAM - ADV/18/1914 - Retention of illuminated fascia sign; Crown Hotel, 6 Market Place, Fakenham, NR21 9BP for Mr Cunningham**

- Target Date: 07 January 2019

Case Officer: Mr G Linder
Advertisement

CONSTRAINTS

Settlement Boundary
Centre
Listed Building Grade II
Conservation Area
Primary Retail Frontages
Primary Shopping Area

RELEVANT PLANNING HISTORY for Crown Hotel, 6 Market Place, Fakenham, NR21 9BP

PLA/19861297 AI
Crown Hotel, 6 Market Place, Fakenham, NR21 9BP
Illuminated advertisement - Approved 09/10/1986

PLA/19940650 LA
Crown Hotel, Market Place, Fakenham
Installation of projecting sign on front elevation - Approved 23/09/1994

PLA/19940723 AI
Crown Hotel, Market Place, Fakenham
Installation of externally illuminated hanging sign - Approved 26/09/1994

THE APPLICATION

Seeks the retention of a fascia sign situated above the ground floor front windows of the Hotel, facing the Market Place, together with the retention of 3 no. down lights.

REASONS FOR REFERRAL TO COMMITTEE

At the request of Councillor J Punchard, who considers that the sign is unacceptable and that the Local Planning Authority should enforce the conservation area as is the case with other properties in the vicinity.

PARISH/TOWN COUNCIL

Fakenham Town Council - Object to the application on the basis that the sign is not in keeping with a landmark building in a conservation area.

REPRESENTATIONS - None received.

CONSULTATIONS

Conservation Officer –Comments - The acrylic fascia is functional. The fascia is entirely flat and pays little regard to the character and appearance of the host building. The absence of any depth, refinement, moulding or simple frame compounds this lack of quality. The end result is therefore more of a tack-on addition, than an integral part of the buildings architecture and styling.

Notwithstanding the above, the long-term impact of the sign is low and its siting is fully reversible with the historic fabric of the building remaining unchanged. The choice of colour reflects the host building and some attempt has been made to connect the proportions and depth of the fascia to the openings and spatial qualities of the north elevation.

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

National Planning Policy Framework (NPPF):

Section 7 – Achieving well-designed places

Section 16 – Conserving and enhancing the historic environment

North Norfolk Core Strategy Policies:

EN 4 – Design

EN 8 – Protecting and Enhancing the Historic Environment

CT 5 - The transport impact of new development

North Norfolk Design Guide Part 8 Objective - Shop fronts and Advertisements

MAIN ISSUES FOR CONSIDERATION

1. Principle
2. Visual Amenity / Heritage impact
3. Highway Safety

APPRAISAL

1. Principle

The application is for Advertisement Consent - as such, the only matters for consideration are the impact of the proposed signage on amenity and public safety, in accordance with Paragraph 67 of the National Planning Policy Framework (NPPF). Such matters are assessed against Chapter 8 of the adopted North Norfolk Design Guide and in consultation with the Highway Authority.

When assessing the acceptability of advertisements, Objective EN 5 (of Chapter 8) of the Design Guide states that the key objective are:

- To ensure that all shopfronts and advertisements preserve or enhance the appearance and character of their host building and the wider street scene;
- To ensure businesses are able to brand themselves successfully in a way that does not harm the character and appearance of our historic town centres; and
- To ensure that all proposals in areas designated as Public realm enhance the overall appearance and usability of the area.

The signage replaces a previous fascia sign in the same location however is different both in terms of the style of lettering and colour finishes. As this is a material change in the design a new application is required.

2. Visual Amenity/heritage

The sign as erected is 4900mm in length and 5500mm in depth and is of an acrylic finish with a background finish of black with white applied lettering.

The choice of colour reflects the host building, which is of white rendered finish with grey quoins and black windows frames. In addition, some attempt has been made to connect the proportions and depth of the fascia to the openings and spatial qualities of the north elevation. As such on balance the style and overall appearance of the sign is considered to be acceptable.

In terms of the impact of the design on heritage assets The Crown public house holds a prominent position within the historic core of the town and encloses the southern side of Market Place, Fakenham's preeminent civic space. The pub dates back to the C18 and its architectural quality and heritage value is reflected in its Grade II Listing. The building forms an important grouping with the adjacent and adjoining heritage assets which combine to enshrine the quality of this part of the designated Fakenham Conservation Area.

The frontage of the building has been rather compromised by the ad hoc accumulation of signage through, vinyls, posters, black boards, 'A' boards and menu frames; all of which have left the elevation looking cluttered and somewhat disjointed.

However notwithstanding this, the long-term impact of the sign is low and its siting is fully reversible with the historic fabric of the building remaining unchanged. In addition the building has been vacant for a significant period and effective advertisement is essential to guarantee viability of such commercial premises and the vitality of this key town centre location.

Therefore whilst the signage is considered to be a missed opportunity to secure a sign which more readily reflects the qualities of the host building, the harm caused by the lack of design quality and finesse is of a low level and most certainly less than substantial. The public benefits of allowing a prominent business to effectively advertise would outweigh this less than substantial harm.

3. Highways

As the site is within Fakenham town centre and the sign is illuminated by three existing down lights the highway authority has indicated that it has no objection to the proposal subject to the level of illumination of the down lights not exceed 800 cd/m^2 at any time.

Conclusion

The Crown Hotel, which is a grade II listed building is situated in a prominent location within Fakenham Market Place and is within the designated conservation area. The application seeks the retention of fascia sign to the front elevation of the building which is located between the ground and first floor windows. The sign which is an acyclic finish has a black background and white lettering and reflects the colour finishes of the host building. Whilst rather flat the design and overall proportions of the sign makes some attempt to connect with the openings and spatial qualities of the north elevation. As such on balance the style and overall appearance of the sign is considered to be acceptable.

In terms of its impact on the heritage assets whilst the design of the signage is a missed opportunity to secure a sign which more readily reflects the qualities of the host building, the level of harm caused is less than substantial and is fully reversible. Furthermore given the fact that the building has been vacant for a significant period and effective advertisement is essential to guarantee viability of such commercial premises it is considered that the public benefits outweigh this less than substantial harm.

As far as the down lighters are concerned the highway authority has indicated that there is no objection to these on highway safety ground subject to the level of illumination being controlled.

RECOMMENDATION: Approve, subject to the imposition of the following conditions in addition to the standard advertisement conditions and any others as deemed necessary by the Head of Planning:

1. the level of illumination of the flood lighting/illuminated sign shall not at any time exceed 800 cd/m^2 , and that no part of the source of the illumination shall at any time be directly visible to users of the adjacent public highway.

- (5) **FAKENHAM - LA/18/1967 - Installation of fascia sign (retrospective); The Crown Hotel, 6 Market Place, Fakenham, NR21 9BP for Mr Cunningham**

Target Date: 19 December 2018

Case Officer: Mr G Linder
Listed Building Alterations

CONSTRAINTS

Settlement Boundary
Centre
Listed Building Grade II
Conservation Area
Primary Retail Frontages
Primary Shopping Area

RELEVANT PLANNING HISTORY for Crown Hotel, 6 Market Place, Fakenham, NR21 9BP

PLA/19861297 AI
Crown Hotel, 6 Market Place, Fakenham, NR21 9BP
Illuminated advertisement - Approved 09/10/1986

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Crown Hotel, Market Place, Fakenham
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PLA/19940723 AI
Crown Hotel, Market Place, Fakenham
Installation of externally illuminated hanging sign - Approved 26/09/1994

ADV/18/1914
Crown Hotel, Market Place, Fakenham
Retention of illuminated fascia sign - Pending

THE APPLICATION

Seeks the retention of a fascia sign situated above the ground floor windows to the front elevation of the hotel which faces the Market Place, together with the retention of 3 no. down lights.

REASONS FOR REFERRAL TO COMMITTEE

At the request of Councillor J Punchard, who considers that the sign is unacceptable and that the Local Planning Authority should enforce the conservation area as is the case with other properties in the vicinity.

PARISH/TOWN COUNCIL

Fakenham Town Council - Object to the application on the basis that the sign is not in keeping with a landmark building in a conservation area.

REPRESENTATIONS - None received.

CONSULTATIONS

Conservation Officer –Comments - The acrylic fascia is functional. The fascia is entirely flat and pays little regard to the character and appearance of the host building. The absence of any depth, refinement, moulding or simple frame compounds this lack of quality. The end result is therefore more of a tack-on addition, than an integral part of the buildings architecture and styling.

Notwithstanding the above, the long-term impact of the sign is low and its siting is fully reversible with the historic fabric of the building remaining unchanged. The choice of colour reflects the host building and some attempt has been made to connect the proportions and depth of the fascia to the openings and spatial qualities of the north elevation.

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

National Planning Policy Framework (NPPF):

Section 7 – Achieving well-designed places

Section 16 – Conserving and enhancing the historic environment

North Norfolk Core Strategy Policies:

EN 4 – Design

EN 8 – Protecting and Enhancing the Historic Environment

MAIN ISSUES FOR CONSIDERATION

1. Visual Amenity / Heritage impact

APPRAISAL

1. Visual Amenity/heritage

The sign as erected is 4900mm in length and 5500mm in depth and is of an acrylic finish with a background finish of black with white applied lettering.

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In terms of the impact of the design on heritage assets The Crown public house holds a prominent position within the historic core of the town and encloses the southern side of Market Place, Fakenham's preeminent civic space. The pub dates back to the C18 and its architectural quality and heritage value is reflected in its Grade II Listing. The building forms an important grouping with the adjacent and adjoining heritage assets which combine to enshrine the quality of this part of the designated Fakenham Conservation Area.

The frontage of the building has been rather compromised by the ad hoc accumulation of signage through, vinyls, posters, black boards, 'A' boards and menu frames; all of which have left the elevation looking cluttered and somewhat disjointed.

However notwithstanding this, the long-term impact of the sign is low and its siting is fully reversible with the historic fabric of the building remaining unchanged. In addition the building has been vacant for a significant period and effective advertisement is essential to guarantee viability of such commercial premises and the vitality of this key town centre location.

Therefore whilst the signage is considered to be a missed opportunity to secure a sign which more readily reflects the qualities of the host building, the harm caused by the lack of design quality and finesse is of a low level and most certainly less than substantial. The public benefits of allowing a prominent business to effectively advertise would outweigh this less than substantial harm.

Summary

The Crown Hotel, which is a grade II listed building is situated in a prominent location within Fakenham Market Place and is within the designated conservation area. The application seeks the retention of fascia sign to the front elevation of the building which is located

between the ground and first floor windows. The sign which is an acyclic finish has a black background and white lettering and reflects the colour finishes of the host building. Whilst rather flat the design and overall proportions of the sign makes some attempt to connect with the openings and spatial qualities of the north elevation. As such on balance the style and overall appearance of the sign is considered to be acceptable.

In terms of its impact on the heritage assets whilst the design of the signage is a missed opportunity to secure a sign which more readily reflects the qualities of the host building, the level of harm caused is less than substantial and is fully reversible. Furthermore given the fact that the building has been vacant for a significant period and effective advertisement is essential to guarantee viability of such commercial premises it is considered that the public benefits outweigh this less than substantial harm.

RECOMMENDATION: Approve, subject to any conditions deemed necessary by the Head of Planning:

(6) **APPLICATIONS RECOMMENDED FOR A SITE INSPECTION**

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

(7) **DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE – QUARTER 3 2018/19**

1. Introduction:

1.1 This report sets out the third quarter performance in relation to the determination of planning applications in both Development Management (DM) and Majors.

2. Background:

2.1 The table below sets out the 2018 performance targets set by Central Government and the period over which performance will be monitored.

Measure and type of application	2018 threshold and assessment period
Speed of Major Development	60% of applications determined within 13 weeks or an agreed extended deadline over a 24 month cumulative period. NB for EIA development this extends to 16 weeks or an agreed extended deadline.
Quality of Major Development	Not more than 10% of appeals overturned over a 24 month cumulative period.
Speed of Non-major ¹ Development	70% of applications determined within 8 weeks or an agreed extended deadline over a 24 month cumulative period.
Quality of Non-major Development	Not more than 10% of appeals overturned over a 24 month cumulative period.

¹ See Town and Country Planning (Development Management Procedure) (England) Order 2015: <http://www.legislation.gov.uk/uksi/2015/595/article/2/made>

2.2 It is important to note that each measure will be assessed separately. An authority can be designated purely for its performance on Major applications or Non-major applications; good performance on one does not outweigh the other.

2.3 An authority can claim 'exceptional circumstances' before designation occurs. An authority will be given the opportunity to provide clear evidence to justify any corrections to data and to set out any exceptional circumstances which would, in their opinion, render designation unreasonable. Such claims are judged against two criteria:

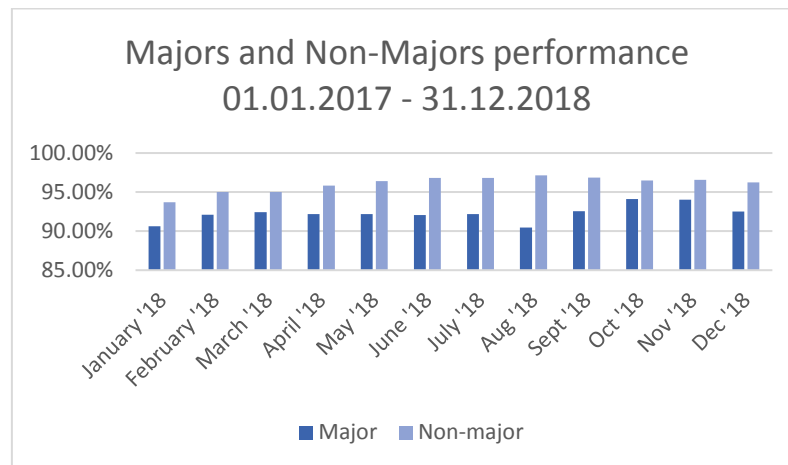
- Whether the issue affects the reasonableness of the conclusions that have been drawn from the data provided, and;
- Whether the issue had a significant impact on the authorities' performance for reasons beyond its control.

3. Current Performance:

3.1 Current applications performance data in relation to speed of decisions for Majors and Non-majors is shown in column 4 of the table and in the graph on the following page. The final column provides a red/amber/green indicator of our performance against the performance target for 2018. This data is shown only for the last 12 month period but the percentage detailed is for the 24 month cumulative period:

Year	Month	Type	Gvt performance indicator (NI157)	National PI 2018 criteria
			Cumulative (month + 23 preceding months)	Majors (60%) Non-Maj (70%)
2018	Jan	Major	90.63%	
		Non-Maj	93.70%	
	Feb	Major	92.10%	
		Non-Maj	95.00%	
March		Major	92.42%	
		Non-Maj	95.00%	
April		Major	92.19%	
		Non-Maj	95.80%	
May		Major	92.19%	
		Non-Maj	96.40%	
June		Major	92.06%	
		Non-Maj	96.83%	
July		Major	92.19%	
		Non-Maj	96.81%	
August		Major	90.48%	
		Non-Maj	97.16%	
Sept		Major	92.54%	
		Non-Maj	96.87%	
Oct		Major	94.12%	
		Non-Maj	96.50%	
Nov		Major	94.03%	
		Non-Maj	96.55%	
Dec		Major	92.50%	
		Non-Maj	96.26%	

3.2 The graph below shows the above data in a clearer format.



3.3 In Development Management the next push will be on reducing the overall use of extensions of time. Extensions of time are used when a valid application period for determination is running but it is clear that more than the statutory time is genuinely required. Any such agreement must be in writing and set out the timescale within which a decision is expected.

3.4 Over the last 24 months cumulative period (1st January 2017 to 31st December 2018) the Development Management service has used extensions of time on approximately 23.4% of applications (across all minor and other application types). This is a slight reduction on quarter 1.

3.5 In the Majors team, use of extensions of time are more prevalent due to the complex and strategic nature of the applications, many of which require S106 Obligations which take the scheme beyond 13 weeks and which therefore rely on dialogue with the applicant/agent to agree a further period of time within which to reach a positive conclusion. Over the same 24 month cumulative period extensions of time were used on 77.6% of major applications. This is an increase of 10% on the first quarter. It is not considered possible or realistic at this time to significantly reduce the dependency on extensions of time for major applications but this position will be reviewed once new pre-application procedures are in place for major applications.

3.6 In all cases our managers and team leaders are meeting the teams regularly to hold case conferences, at these meetings the officers are tasked to update the customer as to the potential for any extension of time period in advance of the expiry period. In addition then the officers are tasked with issuing the decisions within that agreed time period. These were the requirements from the Audit Review and have been the subject of ongoing improvements within the teams. In considering the national tables for performance (back dated to June 2018) the use of extension of time agreements in the planning process at NNDC is not exceptional. This is a matter that can be improved and will be one that the team leaders and our managers will strive to work on.

3.7 Appeals performance data (the quality criteria) was not assessed by Government in 2017. The table below sets out the number of appeals overturned (or lost) and this as a percentage of total application numbers decided over the 24 month period.

	Appeals overturned (lost)	Total applications decided (1 July 2016-30 June 2018)	%
Majors	0	10	0
Non-Majors	1	260	0.38

4. Recommendations:

4.1 Members are asked to note the content of this report.

APPEALS SECTION

(8) **NEW APPEALS**

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

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

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

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

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

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

APPEAL DECISION:- APPEAL DISMISSED

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

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

APPEAL DECISION:- APPEAL DISMISSED

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

APPEAL DECISION:- APPEAL DISMISSED

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

APPEAL DECISION:- APPEAL DISMISSED

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

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

No change from previous report.

Appendix 1:**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).

Enforcement Investigation Reference: EN/16/0088	Appeal Reference: APP/Y2620/F/17/3191942
Location: Appeal A: Stable Court East Range and Part South Range, Melton Constable Hall, Melton Constable Appeal B: Stable Court West and North Wings, Melton Constable Hall, Melton Constable Appeal C: The Bath House, Melton Constable Hall, Melton Constable	
Proposal: Listed building works (See appeal decision)	
Officer Recommendation: N/a	Member decision (if applicable): N/a
Appeal Decision: Appeal A: The appeal is dismissed. The listed building enforcement notice is upheld. Listed building consent is not granted. Appeal B: The appeal is dismissed. The listed building enforcement notice is varied and upheld. Listed building consent is not granted. Appeal C: The appeal is dismissed. The listed building enforcement notice is corrected, varied and upheld. Listed building consent is not granted.	Costs: No costs awarded
Summary: Given the complexities of the site and the appeals the decisions are attached in full at Appendix 2A to the agenda.	
Relevant Core Strategy Policies: N/a	
Relevant NPPF Sections/Paragraphs: N/a	
Learning Points/Actions: N/a	

Application Number: PO/17/2115	Appeal Reference: APP/Y2620/W/18/3201948
Location: 15 Hart Lane, Bodham, NR25 6NT	
Proposal: Erection of a detached single storey dwelling	
Officer Recommendation: Refuse	Member decision (if applicable): N/a
Appeal Decision: Dismissed	Costs: N/a
Summary: The main issues the Inspector considered were: <ul style="list-style-type: none"> • Whether the proposal would be acceptable in regard to access to services and facilities • The impact on the character and appearance of the area, and • The living conditions of future and current occupiers with regard to outlook, light and garden size. <p>Access to services and facilities: The Inspector noted the policy conflict with policies SS1 and SS2 of the Core Strategy. He accepted that the policies were in general conformity with the NPPF, particularly paragraph 103 which seeks to actively manage patterns of growth. However he noted that paragraph 103 of the Framework also recognises opportunities to maximise sustainable</p>	

patterns of growth will differ between urban and rural communities and he took this stance into account in his decision.

The Inspector did not consider that the proposed dwelling would be isolated and as such considered paragraph 79 of the Framework did not apply. However, he noted paragraph 78 which allows for homes in the countryside which enhance or maintain the vitality of rural communities. Indeed, he noted para 78 states policies should identify opportunities for villages to grow where development will support local services and indeed other surrounding villages.

The Inspector noted Bodham has few services beyond a [public house and village hall, however he considered the services in Holt and Sheringham were in close proximity with a good bus service on the A148 which could serve to access such services.

He concluded that, on balancing the locational conflict with the Core Strategy against the terms of the Framework, he did not find the level of accessibility to regularly required services would alone be entirely determinative over the principle of a dwelling in this location.

Character and appearance:

The Inspector considered that the development and associated access and driveways would deprive 15 Hart Lane of all but a small outside area to the rear resulting in an inappropriate density for the character of the area. He felt that, even being inly single storey, the development of the site was too cramped and would therefore be visually incongruous contrary to EN4.

Living conditions:

The confined nature of the plot would involve the new dwelling begin sited close to side and rear boundaries where both outlook and daylight would be restricted. The Inspector also considered that the new dwelling would be overbearing in relation to the occupiers of the host property and the new dwelling resulting in unacceptable living conditions contrary to EN4

Relevant Core Strategy Policies:

SS1 – Spatial Strategy
 SS2 – Development in the Countryside
 EN4 - Design

Relevant NPPF Sections/Paragraphs:

78 and 103

Learning Points/Actions:

Consideration of the less stringent stance on rural dwellings in paragraph 78 of the Framework 2018 needs to be given consideration as this will have implications for how we implement policies SS1 and SS2 of the Core Strategy.

Application Number: PF/18/1177	Appeal Reference: APP/Y2620/D/18/3211022
Location: Tudor Lodge, Vale Road, High Kelling, NR25 6RA	
Proposal: Conversion and extension of the existing garage into annex accommodation	
Officer Recommendation: Refuse	Member decision (if applicable): N/a
Appeal Decision: Upheld	Costs: N/a
Summary: The main issue the Inspector considered was:	

- Whether the proposed annex would be an inappropriate form of development in this location.

The Inspector noted the Council's concerns being that the proposed dwelling would be tantamount to a new independent dwelling in the countryside.

He felt that there was little opportunity for separation of the garage once converted to an annex and the main dwelling given the shared access and close proximity and he considered the as proposed design to be subordinate to the host dwelling. He noted services would be shared between the dwellings. Despite the level of facilities provided (which would allow independent living) he noted the familial connection between the main house and the proposed annexe and as such suggested that conditions could adequately control the use of the annex in the future, limiting occupancy to a dependent relative or other member of the household.

Relevant Core Strategy Policies:

SS1 – Spatial Strategy

SS2 – Development in the Countryside

Relevant NPPF Sections/Paragraphs:

N/a

Learning Points/Actions:

Consideration of how we assess annex applications will be made moving forward with a full training session to be held with officers to consider this and other appeal decisions which have taken a different view. It is expected this will occur in the next few months.

Sources:

Sarah Ashurst – Development Management Manager



Appeal Decisions

Site visit made on 6 November 2018

by Mr K L Williams BA, MA, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 December 2018

Appeal A: APP/Y2620/F/17/3191942

Stable Court East Range and Part of South Range, Melton Constable Hall, Melton Park, Dereham Road, Melton Constable, NR24 2NQ

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr R Gawn against a listed building enforcement notice issued by North Norfolk District Council.
- The enforcement notice, ref: EN/16/0088, was issued on 22 November 2017.
- The contravention of listed building control alleged in the notice is the removal of an object forming part of the building, namely the cupola from the roof of the former Fire Engine House.
- The requirement of the notice is to reinstate an exact replica of the original cupola in its original position on the roof of the building.
- The period for compliance with the requirements is 6 months.
- The appeal is made on the grounds set out in section 39(1) (c), (d) and (e) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Summary of Decision: The appeal is dismissed. The listed building enforcement notice is upheld. Listed building consent is not granted.

Appeal B: APP/Y2620/F/17/3191940

Stable Court West and North Wings, Melton Constable Hall, Melton Park, Dereham Road, Melton Constable, NR24 2NQ

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr R Gawn against a listed building enforcement notice issued by North Norfolk District Council.
- The enforcement notice, ref: EN/16/0087, was issued on 22 November 2017.
- The contravention of listed building control alleged in the notice is the removal of an object forming part of the building, namely the clock mechanism from within the Clock Tower.
- The requirements of the notice are:
 - i) Prior to reinstating the clock mechanism, carry out repairs to Beam A as shown on Drawing No. (6) 03 C received by the Local Planning Authority on 9 April 2015.
 - ii) Reinstatement the clock mechanism within its supporting cradle within the Clock Tower thus restoring the building to its former state.
- The period for compliance with the requirements is 6 months.
- The appeal is made on the grounds set out in section 39(1) (c) and (e) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Summary of Decision: The appeal is dismissed. The listed building enforcement notice is varied and upheld. Listed building consent is not granted.

Appeal C: APP/Y2620/F/17/3191927

The Bath House, Melton Constable Hall, Melton Park, Dereham Road, Melton Constable, NR24 2NQ

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr R Gawn against a listed building enforcement notice issued by North Norfolk District Council.
- The enforcement notice, ref: EN/16/0086, was issued on 22 November 2017.
- The contraventions of listed building control alleged in the notice are:
 1. The removal of objects forming part of the building, namely the sash windows within openings W1-W10 and W15-W17 and their replacement with casement windows.
 2. The removal of objects forming part of the building, namely the casement windows with openings W11-W13 and their replacement with casement windows of a different design.
 3. The installation of casement windows within openings W18 and W19 in breach of condition 2 of listed building consent ref: LA/03/0617.
- The requirements of the notice are to:
 - i) Remove the existing unauthorised casement windows within openings W1-W10 and W15-W17 and reinstate the original windows to restore that part of the building to its former state.
 - ii) Remove the existing unauthorised casement windows within openings W11-W13 and reinstate replicas of the original casement windows to restore the building to its former state.
 - iii) Remove the existing unauthorised casement windows within openings W128-W19 and install sash windows approved under Listed Building Consent L/03/0617.
 - iv) Section 42 of the 1990 Act provides that if any of the steps specified by an enforcement notice have not been taken within the compliance period (and no appeal is pending) the local planning authority may enter the premises and take those steps and recover their reasonable expenses in doing so from the owner.
- The period for compliance with the requirements is 12 months.
- The appeal is made on the grounds set out in section 39(1) (c) and (e) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Summary of Decision: The appeal is dismissed. The listed building enforcement notice is corrected, varied and upheld. Listed building consent is not granted.

Application for Costs

1. The application for costs made by the appellant against the Council is the subject of a separate decision.

Background

2. These appeals concern buildings within Melton Constable Park. Melton Constable Hall is a Grade I listed building. Stable Court west and north wings are Grade II listed and form part of a group of buildings to the north-east of the hall. The Clock Tower (Appeal B) is the centre piece of a group of buildings which form part of the west wing. The east and part of the south range of Stable Court is also Grade II listed. The Fire Engine House (Appeal A) forms part of the east wing. The Bath House (Appeal C) is sited about 225 metres to the west of the hall. It is a Grade II* listed building. The Melton Constable Park Conservation Area includes the hall, the associated buildings, the formal gardens and the surrounding park.

Appeal A: The Fire Engine House

The Listed Building Enforcement Notice

3. The appellant contends that the notice is a nullity because details of the original cupola are not available so that an exact replica could not be put in place. The notice is not missing any essential element. There is a photographic record of the cupola which is the subject of the notice. The Council alludes to scalable plans showing its position, form and design. There is also a cupola of a similar design on a nearby building. This matter does not render the notice a nullity.

Ground (c)

4. On this ground the appellant contends that there was no breach of listed building control because the Council had granted consent for works to the building as part of the comprehensive restoration of the hall. It is said that those works are complete apart from reinstating the cupola, which he refers to as a ventilator.
5. In the late 1980's planning permission and listed building consent (PF86/2010 and LA/86/2010) were granted for conversion of the Fire Engine House to a dwelling as part of a wider scheme for the hall and its outbuildings. However, the Council explains that the scheme made no provision for removal of the cupola. Moreover, the fire engine house was not converted and there was not compliance with pre-commencement conditions requiring submission and approval of final elevational drawings and details of internal and external alterations.
6. The balance of evidence in this appeal is that removal of the cupola was not authorised. The appellant also observes that the cupola was not an original feature but was probably installed when the building was used to house animals. Whether or not the cupola was part of the building as first built or was part of some later alteration, it was an integral part of the listed building at the time of its listing and of its removal. Listed building consent was required for those works and was not obtained. The appeal should not succeed on ground (c).

Ground (d)

7. On this ground the appellant says that the work was carried out as a matter of urgency. It is said that about 10 years ago the cupola began to collapse in one corner. Scaffolding was erected, the slatted sides were found to be rotten and another support was in poor condition. Leadwork was tilting towards the courtyard and thought likely to slip off into the adjacent courtyard. The cupola was removed and a temporary cover was installed while the appellant says he sought to negotiate a permanent solution. A photograph of the building with scaffolding is provided.
8. No structural survey is submitted and there is no substantive assessment of the feasibility of repairing the cupola in-situ rather than removing it. Nevertheless, it is credible that the cupola was in poor condition and that there was a risk to health and safety if it collapsed. The temporary removal of the cupola prior to its repair or replacement may well have been justified. However, a period of about 10 years has elapsed since it was removed, so that the works have assumed a permanent character. Given the limited scale of the

work required, repair or replacement could have been achieved within a much shorter period. The removal of the cupola other than for a short period did not amount to the minimum measures necessary and was not justified on grounds of urgency. The appeal should not succeed on ground (d).

Ground (e)

9. The main issue is the effect of the removal of the cupola on the special architectural and historic interest of the Fire Engine House. It is argued on this ground that the cupola was not part of the original building and its removal would not cause any harm to the building's character and appearance.
10. The former Fire Engine House is significant as part of the range of buildings which form the Stable Court and which contains buildings ancillary to Melton Constable Hall. The building is at the heart of this range of buildings and is the tallest structure on the east side of the courtyard. It forms a centrepiece. Photographic evidence shows that the cupola was a prominent, distinctive and attractive feature in a central position on the ridge of the building's roof. The cupola added to the building's interest and is referenced in the listed building description. Its loss has removed a feature of architectural and historic interest. It has diminished the prominence and role of the Fire Engine House in the east range and in Stable Court as a whole.
11. The available evidence suggests that the current appearance of the Stable Court buildings result from a remodelling undertaken around 1810, rather than dating from the 1670s when the Hall was completed. It is not unusual for historic buildings to have evolved in this manner. This matter does not materially reduce the harm which has resulted from the removal of the cupola. Indeed its removal has diminished understanding of the evolution of the building and of the wider group of buildings forming Stable Court.

Conclusion on Appeal A

12. Listed building consent was required for these works and the appeal should not succeed on grounds of urgency. The unauthorised works have failed to preserve the building's architectural and historic interest. The Stable Court buildings, including the Fire Engine House, are significant elements of the Melton Constable Park Conservation Area. The works also fail to preserve the Conservation Area's character or appearance. They conflict with policy EN8 of the Council's Core Strategy, 2008 (CS) which protects the historic environment. They also conflict with the great weight given to conserving designated heritage assets in the National Planning Policy Framework, 2018. While significant, the harm resulting from these works is less than the substantial harm to which Framework paragraph 195 refers. Nevertheless, there are no public benefits which outweigh this harm. The appeal should not succeed. The notice should be upheld and listed building consent should not be granted.

Appeal B: The Clock Tower

The Listed Building Enforcement Notice

13. The unauthorised works which are alleged in Schedule 1 are limited to the removal of the clock mechanism. Requirement (i), to repair Beam A, therefore goes beyond what is required to remedy the alleged works. The Council contends that the effect of caselaw in *R v Elmbridge BC ex parte Active Office*

Ltd [1997] is that where a listed building has been subject to both unlawful alterations and to general decay an enforcement notice can seek both the rectification of the alterations and any necessary related general repairs.

14. It has not been shown by the Council that, in *Elmbridge*, the requirements of the listed building enforcement notice went further than addressing the unauthorised works to the listed building which had been alleged. In this case, the replacement of Beam A will be necessary before the mechanism can be re-installed. Nevertheless, its inclusion as a requirement of the notice is excessive and the notice will be varied to remove it. The main parties have had the opportunity to comment on this matter. Variation of the notice as set out in the Formal Decision will not result in injustice to them. The appellant considers the issuing of the notice to be disproportionate, unreasonable and unnecessary. The notice is not missing any essential element and is not a nullity.

Ground (c)

15. It is said that the clock mechanism is in the Clock Tower and awaiting repair and re-installation once the Council rectifies insufficient works carried out in default of a Disrepair Notice. It is also contended that there was no breach of control because the Council had issued listed building consent.
16. In May 2016 listed building consent was granted for the removal of the clock mechanism for a temporary period of 6 months. That period expired in November 2016. The enforcement notice which is the subject of this appeal was issued on 22 November 2017. At that date the temporary period for the removal of the clock mechanism had therefore expired.
17. In May 2013 the Council served an Improvement Notice on the appellant under s11 of the Housing Act 2004. It concerned works to the Coach House, a cottage immediately to the south of the Clock Tower. Amongst other things the notice sought to address problems of penetrating damp through the roof, including via the Clock Tower, which the Council considered resulted from years of under investment. Works were carried out in default and completed soon after 20 November 2013.
18. The adequacy of the works carried out in default appears to be a matter of dispute between the parties. Nevertheless, this matter does not form a basis for setting aside the requirement for listed building consent for the removal of the clock mechanism. I conclude that there has been a breach of listed building control. The appeal should not succeed on ground (c).

Ground (e)

19. Under this ground the appellant seeks a further time limited listed building consent for the removal of the clock mechanism. He explains that the mechanism was removed temporarily because the supporting Beam A was rotten and there were leaks in the slate covered hipped roof. It was therefore necessary to safeguard the mechanism by setting it aside. He proposes a further listed building consent be granted, limited to a temporary period of 6 months after completion of the roof repairs by the Council.
20. The main issue is the effect of the removal of the clock mechanism on the special architectural and historic interest of the Clock Tower. While not open to public view, the mechanism is significant as a key element in the character and function of the Clock Tower building. Its removal permanently, or for a

prolonged period, would diminish the historic character of the building. It would conflict with policy EN8 of the Council's Core Strategy, 2008 (CS) which protects the historic environment. It would also conflict with the great weight given to conserving designated heritage assets in the National Planning Policy Framework, 2018. While significant, the resulting harm would be less than the substantial harm to which Framework paragraph 195 refers. Nevertheless, there are no public benefits which would outweigh the harm.

Conclusion on Appeal B

21. The mechanism remains within the Clock Tower, albeit not installed. A significant amount of work is required before it can be re-installed. However, the linking of replacing the mechanism with the roof repairs in the manner suggested by the appellant would result in uncertainty as to when re-installation would be undertaken. Taking this into account and having regard also to the extent of work required I conclude that listed building consent should not be granted but that the period for compliance with the requirements of the notice as varied should be extended to 12 months.

Appeal C: The Bath House

The Listed Building Enforcement Notice

22. There are some minor errors in the notice's requirements. In Schedule 1(1) and in Schedule 2(i) reference to window W14 has been omitted. In Schedule 2 (iii) reference to window W128 should read W18. Windows W14 and W18 are correctly shown on the annotated photograph attached to the notice. These errors can be corrected as set out in the Final Decision without injustice to the main parties.
23. Requirement (i) in Schedule 2 refers to the reinstatement of "the original sash windows". Although the Council refers to having some of the windows previously in place it does not claim to have them all they and they are said to be in varying states of repair. In addition, the appellant contends that these were not "original" windows but were probably installed around 1845-50. These matters can be addressed by varying requirements (i) and (ii) to refer to the windows that were in place before the works alleged in the notice. Requirement (i) can also refer to the installation of replicas where the former windows are not available or are beyond repair. Schedule 2(iv) sets out section 42 of the Act. It is not a requirement and the notice will be varied to remove it. The main parties have had the opportunity to comment on these matters. I am satisfied that the notice can be so varied without injustice to them, as set out in the Formal Decision.

Ground (c)

24. On this ground the appellant asserts that there has been no breach of listed building consent. In July 2005 planning permission was granted for the erection of a two storey extension to the Bath House (PF/03/0616). Listed building consent was also given for partial demolition and alterations to facilitate the erection of the two storey extension (LA/03/0617). The appellant observes that the windows were removed for repair as part of the comprehensive restoration. It was found that the majority of them were in poor condition and during work the heads of original gothic windows were uncovered. New oak casement windows were then designed. It is argued that consent was given for the new

casements during a site meeting with Council officers on 11 September 2011 and that the appellant is not responsible for the Council's failure to confirm this later in writing. A sworn witness statement by Mr Gawn is submitted concerning that meeting, dated 2 June 2016. There is a commentary by the appellant's architect, Mr Tuttle, who also attended the meeting.

25. Casement windows W1-W10 and W14-W17 have replaced sash windows. Casement windows W11-W13 have a different pattern of fenestration from the casement windows previously in place and a different finish. Windows W18 and W19 are casement windows rather than the sash windows which would have been consistent with condition no.2 of listed building consent LA03/0617. The installation of the windows was an alteration affecting the character of the Bath House as a listed building. Notwithstanding the site meeting of 11 September 2011, the content and outcome of which is disputed by the Council, listed building consent was required for these works and was not obtained. The appeal should not succeed on ground (c).

Ground (e)

26. The main issue is the effect of the works carried out on the special architectural and historic interest of the Bath House. The listing description refers to the building as probably dating from 1764, although the Council suggests an earlier period. It originally comprised a two storey building with a central half-octagonal turret directly facing the Hall. It was probably used as a hunting tower and was extended and Gothicised by Capability Brown when the park was re-ordered in the 1760's. During the 19th century a two storey wing was added on the south side. Construction of a further extension to the west has been started but is incomplete. There are views from the Bath House towards the Hall and visa-versa.
27. The Bath House is of particular significance as a principal building within the park and because of its function in relation to the Hall and estate, its historical evolution and its siting and visual relationship with the Hall. Its significance is increased by its distinctive architectural form, including the semi-octagonal turret and castellation. The dominance of windows in its external appearance and the design details of those windows add positively to the building's character and interest. These features contribute to a coherent Gothicised appearance. The particular significance of the Bath House is reflected in its Grade II* listing status.
28. The historic character and appearance of the Bath House has been diminished by the unauthorised works. A substantial amount of historic fabric has been lost. The tower and adjacent walls were characterised by sliding sash windows at ground and first floor levels, with 6 pane lower sashes, 6 pane fixed sashes above and pointed tracery. The east elevation of the Victorian addition also had similar sliding sash windows serving the ground and first floors. The replacement windows (W1-W10 and W14-W17) do not reflect this character. They are casement windows with a side-hung opening mechanism, no meeting rail and transoms of a heavy appearance. The windows also have a natural finish rather than the painted finish of those they replace. The three second floor tower windows were of similar form to the ground and first floor windows but were fixed casements, reflecting their tertiary position. They had single frames of 9 square panes with pointed tracery above. The three replacements

(W11-13) are also fixed but have a different pattern of fenestration and a natural finish.

29. Listed building consent LA/03/617 was granted subject to conditions. Condition no.2 requires compliance with listed plans. Drawing 05 shows two first floor sash windows on the south elevation. The windows installed are side opening casement windows with a natural finish. They are of similar design to windows W1-W10 and W14-W17 as installed and are not consistent with the building's historic detailing and character.
30. The appellant relies in part on the poor repair of the windows which was identified when work begun. However, this could have been addressed, if necessary, by windows which fully reflected the character of the replaced windows. It is also said that the former windows were not original but were inserted around 1845-50 to unify the 17th century building with the Victorian south wing. There is an absence of conclusive documentary evidence on this matter. Even if the appellant is correct, the windows had been part of the character of the listed building for around 170 years. Reference is also made to the uncovering during work of the heads of gothic openings which extended above the level of the first floor. There is an absence of sufficient documentary evidence on this matter for it to carry significant weight in this appeal.

Conclusion on Appeal C

31. The matters raised by the appellant do not outweigh the harm resulting from the unauthorised works. They have failed to preserve the building's architectural and historic interest. The Bath House forms a significant element of the Melton Constable Park Conservation Area. The works also fail to preserve the Conservation Area's character or appearance. They conflict with policy EN8 of the Council's Core Strategy, 2008 (CS) which protects the historic environment. They also conflict with the great weight given to conserving designated heritage assets in the National Planning Policy Framework, 2018.
32. While significant, the harm resulting from these works is less than the substantial harm to which Framework paragraph 195 refers. The appellant considers the new windows to be required to facilitate the restoration of the Bath House and its viable economic use as a dwelling. However, it has not been shown that this could not have been achieved with windows sympathetic to the building's architectural and historic character. There are no public benefits which outweigh the harm which has taken place. I conclude that the appeal should fail. The enforcement notice should be varied, corrected and upheld. Listed building consent should not be granted.

Formal Decisions

Appeal A: APP/Y2620/F/17/3191942 (The Fire Engine House)

33. The appeal is dismissed, listed building consent is not granted and the listed building enforcement notice is upheld.

Appeal B: APP/Y2620/F/17/3191940 (The Clock Tower)

34. It is directed that the listed building enforcement notice be varied as follows:
- i) In paragraph 3 by the replacement of the words Six Months with the words Twelve Months.

- ii) In Schedule 2 by the deletion of requirement (i) and the renumbering of requirement (ii) to become requirement (i).

35. The appeal is dismissed, listed building consent is not granted and the listed building enforcement notice is upheld subject to the above variations.

Appeal C: APP/Y2620/F/17/3191927 (The Bath House)

36. It is directed that the listed building enforcement notice be varied as follows:

- i) In Schedule 2 (i) by the replacement of the words after "reinstate" with the words "the sash windows which were in place before the works alleged in this notice or replicas of those windows where they are unavailable or are beyond repair to restore that part of the Building to its former state".
- ii) In Schedule 2(ii) by the replacement of the words after "reinstate" with the words "replicas of the casement windows which were in place before the works alleged in this notice to restore that part of the Building to its former state".
- iii) In Schedule 2 by the deletion of requirement (iv).

37. It is further directed that the listed building enforcement notice be corrected as follows:

- i) In Schedule 1(1) and in Schedule 2(i) by replacing "W15-17" with "W14-17".
- ii) In Schedule 2(iii) by replacing "W128" with "W18".

38. The appeal is dismissed and listed building consent is not granted. The listed building enforcement notice is upheld subject to the variations and corrections set out above.

K Williams

INSPECTOR



Costs Decisions

Site visit made on 6 November 2018

by Mr K L Williams BA, MA, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 December 2018

Costs applications in relation to Appeal Refs: APP/Y2620/F/17/3191942, 3191940 and 3191927

Melton Constable Hall, Melton Park, Dereham Road, Melton Constable, NR24 2NQ

- The applications are made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 39, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The applications are made by Mr R Gawn for partial awards of costs against North Norfolk District Council.
 - The appeals were against listed building enforcement notices alleging unauthorised works to the Fire Engine House, the Clock Tower and the Bath House respectively.
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Decision

1. The applications fail and no awards of costs are made.

The Submissions for the Appellant – Summary

2. The appellant seeks a partial award of costs in each appeal. In each case he says that the Council failed to communicate with him before issuing the enforcement notice, to seek resolution by negotiation or to consider the expediency of issuing the enforcement notice. In respect of the Fire Engine House the appellant refers to the Council's failure to respond to a letter of 2 May 2017. In respect of the Clock Tower it is said that the Council failed to determine an application within a reasonable period of time. With regard to the Bath House the appellant contends that the Council behaved unreasonably in failing to provide written consent for works following a meeting on 11 September 2017.

Reasons

3. Irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Planning Practice Guidance provides examples of behaviour which may give rise to an award against a Council. They are not exhaustive but include lack of co-operation with the other party to an appeal.
4. The Council's responded to the appellant's letter of 2 May 2017 in a letter of 29 May 2017. In that letter it set out its position regarding the removal of the cupola from the Fire Engine House. A meeting on site had been held in April 2015 during which Council officers had also explained their concerns. A Council letter of 6 May 2016 explains that it was not inviting an application for consent

as it considered the cupola an important feature of the listed building. The Council did not act unreasonably in this appeal. It did engage with the appellant and communicate with him. It considered the unauthorised works unacceptable rather than a matter for negotiation. It had identified harm to the listed building before concluding that enforcement action was expedient and it later provided substantive evidence to defend the appeal.

5. With regard to the Clock Tower, the Council acknowledges that it did not determine a listed building application for temporary removal of the clock mechanism for just over a year. An application for temporary removal of the clock mechanism was received in January 2015 but was withdrawn. A further application was made in April 2015 but not determined until May 2016.
6. The Council explains that at the time there was a range of complex planning and other issues arising across the Melton Constable Hall site. It says that the delay resulted from seeking to address a range of issues at the site, as set out in its letter to the appellant of 6 May 2016. They included a disputed matter between the Council and the appellant concerning the relevance and effect of works to a cottage adjacent to the Clock Tower. Those works were carried out by the Council in default following the serving of an Improvement Notice under the Housing Act 2004.
7. There was a range of correspondence between the Council and the appellant between 2013 and late 2014. It indicates that the Council did seek to engage with the appellant. The Council provided substantive evidence to defend the appeal and had pursued the reinstatement of the mechanism over a long period. It did not act hastily and had properly considered the expediency of enforcement action. The period taken to determine the listed building consent application fell below the Council's normal performance standard. Nevertheless, the clock mechanism had been removed by late December 2013 and the enforcement notice leading to this appeal was not issued until November 2017. The timing of the Council's decision has little bearing on this appeal. Having regard also to the matters adduced by the Council I find that they did not act unreasonably.
8. With regard to the Bath House. A site meeting involving the appellant, his architect and Council officers took place in September 2011. The range of topics discussed or agreed at that meeting is disputed. However, such meetings are routine and the meeting did not result in any commitment by the Council to grant listed building consent for any works. During 2015 it became clear to the Council that there was an issue with the replacement windows and it then arranged a further meeting. Discussions took place in October 2015. In a letter of 6 May 2016 the Council explained its position regarding works to the Bath House. It drew attention to the works it considered unacceptable.
9. The Council's behaviour was not unreasonable. It did engage with the appellant and it communicated with him. It was justified in not negotiating on or inviting applications from the appellant for those works it assessed as being unlikely to be acceptable. It was nevertheless open to the appellant to apply for listed building consent for works which were not covered by the earlier consent. The Council had identified the harm it considered arose from the unauthorised works before concluding that it was expedient to issue a listed building enforcement notice. It later provided substantive evidence to defend the appeal.

Conclusion

10. I have concluded that in each of these appeals there was not unreasonable behaviour by the Council. The applications for awards of costs should therefore not succeed.

K Williams

INSPECTOR