

FAKENHAM - PF/24/2184 - Erection of two buildings for use as a restaurant and farm shop, and associated development including a separate wc and bar, two polytunnels, car-parking, paths and access at Salmonds Lane, Thorpland, Fakenham, Norfolk, NR21 0HB

Applicant: Mr J Ashworth

ADDENDUM REPORT

BACKGROUND

This addendum report is to update members in respect of the above application.

This report should be read in conjunction with the Committee Report and the Development Committee Minutes of the meeting of 27 June 2025. These are included at **Appendix 1** and **Appendix 2** of this report.

At the meeting of the Development Committee on 27 June 2025, it was resolved:

That the Assistant Director for Planning be given authority to approve the application, subject to agreement of appropriate conditions and if necessary, a S.106 agreement, such conditions to include an ongoing link between the ownership of the farm and the business on the development site

Since the resolution to approve, Officers have been working with the applicant on both a draft set of planning conditions (substantially completed and agreed) and a draft Section 106 obligation to secure “an ongoing link between the ownership of the farm and the business on the development site.”

UPDATE

Whilst a draft legal obligation had been substantially negotiated and was close to agreement, the applicant has advised that they no longer wish to enter into a s106 obligation to include an ongoing link between the ownership of the farm and the business on the development site. The application is therefore being referred back to Development Committee for re-consideration in the absence of a S106 Obligation.

Officers consider that a s106 obligation is still required should members be minded to approve the application, for the reasons set out in the principle of development section below.

Since the resolution to approve the application in June 2025, the North Norfolk Local Plan has been adopted (17 December 2025), replacing the North Norfolk Core Strategy against which the proposed development was previously considered.

Because the formal planning decision has not yet been issued there is not an existing planning permission and therefore no “fall-back” position. This means that, in bringing the matter back before the Development Committee, the application must therefore now be considered against policies in the new Local Plan and the decision made in accordance with those policies unless any material considerations indicate otherwise. There is case law (R (Kides) v South Cambridgeshire DC [2002] EWCA Civ 1370), that confirms this approach.

The new policy considerations in the Local Plan are as follows:

Principle of development

Under Local Plan Policy SS1, the application site remains within the Countryside Policy Area where development is limited to those types allowed for in Local Plan Policy SS2. This sets out the types of development that will be permitted in the countryside which includes the use and development of land associated with agriculture or forestry as well as recreation and tourism, subject to compliance with all other relevant Local Plan policies.

Previously the key Core Strategy policy was EC 1 (Farm Diversification), but this position has changed because there is no specific farm diversification policy in the Local Plan.

Local Plan Policy E3 (Employment Development Outside of Employment Areas) deals with employment development outside of employment areas. Amongst other things it sets out that new employment development will be permitted where it can be demonstrated that there are specific reasons for the development not being located on a designated or allocated employment area. This includes the expansion of an existing business, businesses that are based on agriculture where there are sustainability advantages to being in close proximity to the market they serve and that the development would not adversely affect highway safety. However, the explanatory text of this policy is clear in that employment development means those types of uses typically located on industrial estates and excludes retail and tourism which are subject to separate policies in the Local Plan.

Officers consider that the nature and proposed retail and tourism use of the development (a farm shop and café), would not typically be located on an industrial estate and therefore Policy E4 (Retail & Town Centre Development) of the Local Plan would be the most relevant policy against which to assess the principle of the proposed development.

Local Plan Policy E4 states that *“in the designated Countryside Area proposals for small scale specialist retail services will be supported in principle only where it can be demonstrated that the proposal is to perform a wholly ancillary role to an existing or planned use and is of a proportionate small scale.”*

There are no existing structures on the application site. The proposed floor space is approximately 387sqm. Based on the submitted floor plans, it is considered that the café (194sq.m), kitchen (70sq.m) and bar (13.7sq.m) would not be ancillary to the farm shop but a significant part of the development proposal (277 sq.m) as the farm shop accounts for only 80 sq.m or 20.7%. Officers therefore consider the proposal is not of a proportionate small scale as required by Local Plan Policy E4.

A recent appeal decision (ref. APP/Y2620/W/25/3370351, dated 29 January 2026), for the proposed change of use of an agricultural barn at Sharrington Strawberries, Holt Road, Sharrington to mixed Class E, considered the Local Plan policies which are also relevant in this case. Although the appeal was dismissed primarily for highway safety reasons, the Inspector took into account the intention of a unilateral undertaking (UU) offered by the applicants to ensure that the appeal site would be linked to the land where “home grown” produce would be grown, to be sold at the proposed development.

The Inspector stated:

“I have also taken account of the UU which ensures that the proposed farm shop would be operated in accordance with the wider farming enterprise. The Council expressed some reservations that the UU did not prevent the proposed building being sold separately from the main farm holding and it did not include a clause requiring monitoring and enforcement. However, the UU would bind the land and would apply to successors in title and subject to the imposition of an appropriate condition in relation

*to the source of the goods to be sold in the building and in relation to monitoring and enforcement of that condition, **I am satisfied that the UU would provide an effective link between the proposed development and the wider farm enterprise.***

A copy of the appeal decision is attached at **Appendix 3**.

With regard to the current application the completion of a S106/UU would ultimately ensure that the proposed farm shop would be operated in accordance with the wider farming enterprise. Officers therefore maintain their position that should members be minded to approve the application, this should be subject to the completion of a s106 agreement/UU to ensure that there is an ongoing link between the development site and the farm. Officers have reservations that without a S106 agreement, there would be no mechanism to tie the land to the wider farm enterprise as this matter could not be controlled through a planning condition for example.

Officers give only moderate positive weight to the fact that there could be a condition limiting the produce to be sold. This would require that at least 70% of the goods (by product line) to be sold or offered for sale or consumption from the farm shop to be solely limited to produce grown, reared or produced within the County of Norfolk (i.e. including Thorpland Lodge Farm) and the remainder of goods sold or offered for sale or consumption could be from any other place.

Policy CC3 Sustainable Construction, Energy Efficiency & Carbon Reduction.

Policy CC3 requires all new residential development to achieve a minimum 31% reduction in CO₂ emissions relative to the 2013 Edition of Part L (amended 2016) or any updated national standard. For non-residential schemes over 250sqm, BREEAM "Very Good" (or equivalent) is required.

The proposed floor space of the proposed development is approximately 387sqm and therefore triggers the policy requirement for BREEAM "Very Good" (or equivalent). The policy requires that this is achieved as a minimum unless, it can be clearly demonstrated that this is either not technically feasible or viable. A compliance statement is required as set out within criterion 2 b of Policy CC3. This has not been provided by the applicant. Officers have suggested that this matter could be dealt with by planning condition, but the applicant contests that the requirements of Policy CC3 would require a redesign of the scheme and add additional professional costs which would ultimately make the project unviable.

As an alternative the applicant has suggested that they are committed to delivering a sustainable development, and proposes the following alternative, proportionate approach:

- Use of responsibly sourced, low embodied carbon materials (e.g. timber construction)
- Biodiversity enhancements and landscaping across the site
- Low operational energy demand through passive design and limited servicing
- Water efficiency measures appropriate to the use

Officers consider that, whilst this approach has some merit, it can only be accorded limited weight such that the proposed development would be contrary to Local Plan Policy CC3.

Policy CC 4 Water Efficiency.

Policy CC4 requires that all new development must be designed and constructed in a way that minimises its impact on water resources. Non-housing development should meet the BREEAM “Very Good” water efficiency standard, or equivalent successor

A compliance statement is required for Policy CC4. This has not been provided by the applicant but they have confirmed that they are happy for this matter to be dealt by a planning condition to secure compliance with the policy.

Location, Sustainability and Impact on the Highways Network

Officer’s opinion regarding location, sustainability and impact on highways remains the same as previously set out in Section 2 of the officer report attached at **Appendix 1**.

Local Policy CC9 (Sustainable Transport) replaces Core Strategy Policy CT 5 (The transport impact of new development). The new policy updates the approach to assessing transport impacts, sustainable access and travel planning. This sets out a need for proposals to provide for “safe and convenient access on foot and by cycle, public and private transport addressing the needs of all, including those with a disability.”

Local Plan Policy HC7 (Parking Provision) is a direct replacement for Core Strategy Policy CT 6 and updates parking standards and management, reflecting current national guidance and sustainability objectives. Policy HC7 is relevant for all proposals requiring parking provision or involving loss of parking spaces.

Overall, Officers consider that the proposal conflicts with the aims of sustainable development, the need to minimise travel, and the ability to encourage walking, cycling, use of public transport and reduce the reliance on the private car as represented in national and local policy. The proposal is therefore considered to be contrary to Local Plan Policy CC9, paragraphs 115, 116 and 117 of the National Planning Policy Framework and Chapter 5 of Norfolk’s Local Transport Plan 4 Strategy 2021-2036.

Local Plan Policy CC8 (Electric Vehicle Charging) is a new policy requiring that all non-residential development should provide “electric vehicle charging points of a minimum of 1 charging point or 20% of all new parking spaces, whichever is the greater, unless there is evidence that the viability of the scheme would be significantly affected.”

The proposed site plan shows 54 parking spaces 3 of which would have EV charging points. The policy requirement would be for 10 (20%) EV charging points. However, given the type of development proposed being likely to be visited for shorter amounts of time, Officers consider that a reduced provision is, on balance, acceptable. A condition is recommended to secure the installation of the EV charging points.

The application proposes adequate on-site parking provision, including cycle parking provision and EV charging points and is therefore considered compliant with Local Plan Policies HC7 and CC8.

Biodiversity Net Gain (BNG)

As set out within Section 6 (Ecology) of the previous officer report (see **Appendix 1**), BNG will be dealt with via a combination of on-site and off-site intervention or purchase of statutory

credits prior to the commencement of development. Because the on-site gains would be considered 'significant', a £2,950 BNG Council Monitoring Fee will be required at the condition discharge stage. This can be secured through a s106 Unilateral Undertaking or s111 of the Local Government Act.

Policy E8 New Tourist Attractions & Extensions

The purpose of Policy E8 is to support proposals for new tourist attractions and extensions to existing attractions that broaden the tourism opportunities in appropriate locations across the district and extend the tourist season. The policy requires any adverse impacts of proposals to be weighed against the economic benefits. Proposals are required to demonstrate that there are no suitable existing buildings that can be re-used in the locality.

Whilst the applicant has not expressly stated that the proposal is a new tourist attraction, were the Development Committee to assess the proposal against this Policy, then the adverse impacts including highway impacts and lack of sustainability would weigh against the grant of permission. Whilst it is a matter for the Development Committee to weigh the application in the balance, Officers consider that the economic benefits do not outweigh the adverse impacts.

Conclusion and Planning Balance

It is acknowledged that that the proposed development would deliver some, albeit modest economic benefits. Paragraph 88 of the NPPF indicates that decisions should enable the diversification of agricultural and other land-based rural businesses to support a prosperous rural economy.

In this case however, it is considered that the proposed development would clearly go beyond the scale of retail development envisaged by Local Plan Policy E4 as the policy is clear in requiring development in the countryside to *'perform a wholly ancillary role to an existing or planned use and is of an appropriate and proportionate small scale.'* The scale of the proposed development is considered significant and the need for the development has not been adequately justified, with the viability evidence submitted suggesting that the farm is currently profitable.

The location of the proposed development is such that it cannot provide for safe and convenient access on foot, cycle, public and private transport to address the needs of all, including those with a disability as sought by Local Plan Policy CC9. It is apparent that it is not feasible to make the location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport) as suggested in paras 115 and 117 the NPPF.

Furthermore, weighing against the proposal is the failure of the proposed development to comply with Local Plan Policy CC3 (Sustainable Construction, Energy Efficiency & Carbon Reduction.).

Overall, Officers consider that the proposal would conflict with Local Plan Policies, E4, CC9, and CC3. Whilst the proposal is acceptable in other respects and complies with Local Plan Policies relevant to those matters, and would also provide economic benefits, it is considered that, overall, these benefits do not outweigh the harm from the main policy conflicts.

RECOMMENDATION:

REFUSAL for the following reasons:

- 1. The proposal would result in an unsustainable form of development where sustainable modes of transport such as walking and cycling cannot be accessed nor improved, such that the vast majority of trips would be to be made by car. The proposed development would therefore be in conflict with policies SS1, SS2 and CC9 of the North Norfolk Local Plan contrary to its strategic aims of achieving sustainable development and give rise to accessibility concerns as set out within Policies SS 1, SS 2 and CC9 of the North Norfolk Local Plan and paras 115, 116 and 117 of the NPPF.**
- 2. The scale of the proposed development is considered significant, and the proposal is therefore not of a proportionate small scale as required by Policy E4 of the North Norfolk Local Plan.**
- 3. The application fails to demonstrate how it would accord with Policy CC3 of the North Norfolk Local Plan in terms of Sustainable Construction, Energy Efficiency and Carbon Reduction.**

Final wording of refusal to be delegated to the Assistant Director - Planning.