

FULMODESTON - RV/25/2839 – Variation of Condition 8 (Woodland Management Plan) of planning permission PF/21/3458 (Erection of two one-bed tree houses with external works and servicing (to include biorock drainage system and solar panels) - Revisions to the Woodland Management Plan at Browns Covert, Hindolveston Road, Fulmodeston.

Applicant: D Astley

Minor Development

Target Date: 05.05.26

Extension of Time:

Case Officer: Jamie Smith

FULL Planning Permission

RELEVANT SITE CONSTRAINTS

Countryside

Areas Susceptible to Groundwater SFRA

Surface Water Flooding

Detailed River Network SFRA

Landscape Character Area - Type TF1 (Tributary Farmland)

GIRAMS

Site subject to a legal obligation - S106/24/0032

RELEVANT PLANNING HISTORY

PF/26/1093 - Supporting infrastructure related to two treehouses approved under planning permission PF/21/3458 comprising guest arrival area with parking, open canopy and timber boardwalk, fire water ponds and a single array of solar PV panels to serve both units - Pending Consideration.

PF/24/2434 - Swanton Novers Wood - Erection of additional four, one bedroom self-contained tree houses for use as short-term holiday let accommodation with external works and servicing (to include solar panels, ponds and car parking provision) - Pending Consideration.

RV/24/1502 - Variation of condition 2 (approved plans) of planning permission PF/21/3458 (Erection of two one-bed tree houses with external works and servicing (to include biorock drainage system and solar panels) to allow design alterations to Treehouse 1 and provision of bin and gas bottle store – Approved.

PF/24/1746 - Supporting infrastructure related to the two treehouses approved under planning permission PF/21/3458 comprising guest arrival area with parking, open canopy and timber boardwalk, fire water ponds and a single array of solar PV panels to serve both units – Approve.

NMA/24/0981 - non-material amendment of planning permission PF/21/3458 (Erection of two one-bed tree houses with external works and servicing (to include biorock drainage system and solar panels)) to allow general amendments to treehouses 1 and siting of bin stores and log stores for the treehouses – Refused.

PF/21/3458 - Erection of two one-bed tree houses with external works and servicing (to include biorock drainage system and solar panels) – Approved.

GF/94/0011: Brown's Covert, Hindolveston Road, Fulmodeston - Proposal: Improvements to forest road/turning area to facilitate removal of timber (notification by Forestry Commission) – no objections.

THE APPLICATION

Planning application ref: PF/21/3458 was considered by Development Committee on 26 January 2023 for the construction of two treehouses, as part of an ecotourism diversification project. Development Committee resolved to approve the application (the Officer recommendation was one of refusal). A key factor in Members decision to overturn the Officer recommendation was the applicant's commitment to delivering a very high Biodiversity Net Gain (BNG), estimated at a minimum of 6,000%, in advance of the statutory requirement of 10%. The BNG was secured through Condition 8 and the Woodland Management Plan and associated S106 obligations.

The current application seeks to vary Condition 8 of approved PF/21/3458 to reduce the BNG requirement from the previously stated 6,000% to a minimum of 10%, in line with statutory requirements.

This report should be read in conjunction with the Committee Report and the Development Committee Minutes from the meeting of 26 January 2023 and these are included at **Appendix 1 and 2** of this report.

REASONS FOR REFERRAL TO COMMITTEE

At the request of the Development Manager in light of the notable change proposed to a material consideration in favour, which previously played a pivotal part in Development Committee's justification for departing from the Development Plan and overturning the Officer recommendation for refusal.

CONSULTATIONS

NNDC Landscape – Advice Given

Information set out in the woodland management plan is acceptable and will support long term progression of the woodland habitat to mixed broadleaf and of overall higher biodiversity value. The plan is therefore supported.

Fulmodeston With Barney Parish Council — No comments received.

REPRESENTATIONS

None received.

HUMAN RIGHTS IMPLICATIONS

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 above matters, approval of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

CRIME AND DISORDER

The application raises no significant crime and disorder issues.

EQUALITY AND DIVERSITY ISSUES

The application raises no significant equality and diversity issues.

LOCAL FINANCE CONSIDERATIONS

Under Section 70(2) of the Town and Country Planning Act 1990 the council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application.

Local finance considerations are not considered to be material to this case.

RELEVANT PLANNING POLICIES

North Norfolk Local Plan (December 2025)

Policy CC1: Delivering Climate Resilient Sustainable Growth

Policy CC7: Flood Risk & Surface Water Drainage

Policy CC9: Sustainable Transport

Policy CC10: Biodiversity Net Gain

Policy CC12: Trees, Hedgerows & Woodland

Policy CC13: Protecting Environmental Quality

Policy SS1: Spatial Strategy

Policy SS2: Development in the Countryside

Policy HC7: Parking Provision

Policy ENV2: Protection & Enhancement of Landscape & Settlement Character

Policy ENV4: Biodiversity & Geodiversity

Policy ENV5: Impacts on International & European sites: Recreational Impact Avoidance & Mitigation Strategy

Policy ENV6: Protection of Amenity

Policy ENV8: High Quality Design

Policy E6: New Tourist Accommodation, Static Caravans & Holiday Lodges, & Extensions to Existing Sites

Material Considerations:

National Planning Policy Framework (NPPF) (December 2024)

Chapter 2: Achieving sustainable development

Chapter 4: Decision-making

Chapter 8: Promoting healthy and safe communities

Chapter 9: Promoting sustainable transport

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

Supplementary Planning Documents and Guidance:

North Norfolk Design Guide Supplementary Planning Document (SPD) (December 2008)

OFFICER ASSESSMENT:

This application has been submitted under Section 73 of the Town and Country Planning act 1990. In this case, whilst the applicant seeks to amend Condition 8 of application PF/21/3458, any permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.

Planning application ref: PF/21/3458 was considered by Development Committee on 26 January 2023 for the construction of two treehouses, as part of an ecotourism diversification project. Development Committee resolved to approve the application (the Officer recommendation was one of refusal). The principle of development was therefore established through the granting of that planning permission.

In resolving to approve the scheme, the minutes of the meeting (See **Appendix 2**) set out that the eco-tourism benefits of the proposal as well as the significant biodiversity net gain benefits of the proposal being offered by the applicant were afforded considerable weight by the Development Committee in departing from the Development Plan.

The minutes refer to 10,000% Biodiversity Net Gain (BNG) gains but it was subsequently established that this was actually a figure closer to 6,000%, but which was nonetheless significantly exceeding the emerging statutory requirement of 10%. This 6,000% BNG commitment offered by the applicant was secured through Condition 8 of planning permission PF/21/3458 which required the programme of works identified within the approved Woodland Management Plan (WMP) and associated Section 106 obligations.

The current application seeks to vary Condition 8 of PF/21/3458 to reduce the BNG requirement from the previously stated (minimum of) 6,000% to the statutory requirement of 10%. The application states that the approved scheme does not fully reflect the original intention for a wider development of up to 14 treehouses and that the previously stated BNG uplift is not deliverable in its current form. Whilst the applicant may aspire to deliver a larger number of treehouses as part of a wider masterplan, Members were clear at the time of determination that the application before them related solely to two treehouses. The high BNG uplift was presented as a direct benefit of the two treehouse proposal, and the Committee's resolution relied on that understanding.

The current application states that the ecological benefits requires significant funding, and the ecotourism project will assist with only a small part of this. As a result, in an effort to obtain alternative means of funding to deliver the biodiversity and environmental improvements, the estate applied to DEFRA's Countryside Stewardship Scheme. However, DEFRA funding cannot be granted where the same biodiversity improvements are already secured through a legal obligation attached to the land, such as a Section 106 agreement or planning condition. As a result, the applicant is unable to access DEFRA funding whilst the existing legal obligations remain in place.

To resolve this, the applicant requests that Condition 8 be varied to provide just 10% BNG, which is still in excess of any planning requirement at the time that the consent was granted, (as this permission was approved before statutory BNG came into play). The BNG obligations

would then be removed from the Section 106 agreement. The delivery of wider objectives of the Woodland Management Plan and other strategies at the estate, would then be subject to receiving funding from the DEFRA Countryside Stewardship Scheme (application currently lodged with DEFRA). In addition, the applicant also seeks consideration of the creation of a Habitat Bank for future phases of development and, which would also allow for the supplying of biodiversity units to other developments within the North Norfolk area (and beyond).

Whilst a Habitat Bank may be an appropriate way to provide Biodiversity Net Gain (BNG) for future developments, it does not address the issues relating to application PF/21/3458, namely that the 6,000% BNG was offered as a significant material consideration in support of a departure from the Development Plan. The Habitat Bank was not part of the original application and was not relied upon when planning permission was granted. It therefore cannot replace the environmental benefits that helped justify the approval. In addition, a Habitat Bank would serve future development phases and could generate separate income, whereas PF/21/3458 relates only to the two treehouses that have already been approved. The BNG benefits for PF/21/3458 must be considered separately and on their own merits. A Habitat Bank proposal is a separate project in itself requiring its own assessment, approvals and legal arrangements. It was not part of the approved PF/21/3458 scheme and should not be relied upon to justify changes to the obligations associated with that permission.

Local Plan

A key change since application PF/21/3458 was determined is the adoption of the new North Norfolk Local Plan in December 2025. **Policy E6** considers **New Tourist Accommodation, Static Caravans & Holiday Lodges, & Extensions to Existing Sites**.

New tourist accommodation at this location (i.e. it is not within the boundary of selected settlement / is not well related to a settlement or established tourist business) would be regarded as being a departure from Local Plan Policy E6. The only basis for granting permission under Policy E6 would be if it involved business expansion and extension to existing tourist accommodation...and holiday lodge sites subject to such a scheme securing measurable biodiversity net gains and the proposal not having an adverse impact on the key characteristics of the valued features of the landscape; residential amenity; and the safety and operation of the local highway network.

Application PF/21/3458 was the first application for holiday accommodation on this site. However, subsequent permissions have been granted and are in the process of implementation. As such, were the Committee minded to support the proposal then it could be possible to argue that the proposal before Committee should be assessed as an extension to an existing tourist accommodation site.

Planning Balance and Conclusion

Reducing the BNG requirement from 6,000% to 10% would be a significant change to the scheme approved under PF/21/3458. It would alter a key part of the justification on which Members granted planning permission and could certainly have affected the planning balance consideration at the time if the BNG figure was at the level now proposed.

It is acknowledged that the treehouses approved under the original permission have commenced on site, and that a further four treehouses have also been approved under application PF/24/2434.

The applicant has advised that DEFRA funding cannot be secured where the same biodiversity enhancements are already required through a legal agreement. As a result, this

means the approved biodiversity enhancement package can no longer be delivered as originally intended.

The Local Planning Authority must therefore consider whether the development, with reduced BNG offer and the potential to create a Habitat Bank will satisfy the environmental benefits that supported the original approval.

In light of the change to the Development Plan with the adoption of the Local Plan, the proposal could be considered to be in general accordance with the aims of Policy E6.

Any application today could only be mandated to provide 10% BNG and guidance from government suggests that policies requiring greater than 10% should be avoided unless adequately justified.

Although disappointing that the applicant has, in effect, reneged on a BNG commitment made in support of a planning application, the overall BNG gains across the land would be delivered, albeit at potential financial gain rather than financial cost to the applicant enabled through the selling of BNG credits that would otherwise have been delivered through the grant of two tree houses.

RECOMMENDATION

APPROVAL subject to securing a minimum of 10% Biodiversity Net Gain and the creation of a Habitat Bank prior to the issuing of any planning permission plus the imposition of relevant conditions as imposed on previous application PF/21/3458.

Final wording of conditions be delegated to the Assistant Director – Planning