

**CLEY-NEXT-THE-SEA - PF/19/0089 - Demolition of existing agricultural building & erection of agricultural workers dwelling; Land west of, Holt Road, Cley-Next-The-Sea, NR25 7UA for Mr Starling**

**Minor Development**

**- Target Date: 21 March 2019**

Case Officer: Miss J Smith

Full Planning Permission

**CONSTRAINTS**

SFRA - Fluvial 1% AEP + 35% CC  
SFRA - Fluvial 1% AEP + 65% CC  
SFRA - Risk of Flooding from Surface Water + CC  
SFRA - Fluvial 0.1% AEP + 25% CC  
SFRA - Flood Zone 2  
SFRA - Flood Zone 3A  
SFRA - Flood Zone 3B  
SFRA - TDL 0.1% AEP + CC  
SFRA - Tidal 0.5% AEP +CC  
SFRA - Flood Warning Area  
SFRA - Areas Susceptible to Groundwater Flooding  
SFRA - Flood Alert Area  
EA Risk of Flooding from Surface Water 1 in 1000  
Area of Outstanding Natural Beauty  
Undeveloped Coast  
Countryside  
Conservation Area  
C Road

**RELEVANT PLANNING HISTORY**

PLA/19980328 EF

COOKE'S MARSH, HOLT ROAD, CLEY

CERTIFICATE OF LAWFULNESS FOR EXISTING USE OF LAND FOR THE STORAGE OF FISHING AND ASSOCIATED EQUIPMENT

Approved 29/06/1998

PLA/19980420 EF

COOKE'S MARSH, HOLT ROAD, CLEY

CERTIFICATE OF LAWFULNESS - PLANT HIRE AND GROUND WORK BUSINESS

Approved 30/12/1998

PF/13/1077 PF

Land at Cooks Marsh, Holt Road, Cley-next-the-Sea, Holt, NR25 7UA

Erection of winter cattle store and feed store

Approved 06/11/2013

**THE APPLICATION**

The application seeks permission to erect a two bedroom detached agricultural workers dwelling with a workshop at ground floor level and residential accommodation at first floor level. The scheme provides parking and manoeuvring for a minimum of three cars, residential amenity space and bin storage. The site is located on land surrounded by marshland currently used in association with the keeping of beef cattle.

The dwelling would comprise red facing brickwork at lower level with timber boarding at upper level under a profile metal sheet roof. The proposed building will replace an existing single

storey storage building.

The site is located along the western side of Holt Road in Cley-next-the Sea where access to the site would be via a private unmade track.

Member's attention is drawn to the submitted supporting information provided by the agent regarding the schemes compliance with local and national policies relating to the principle of development, design, impact upon the character of the countryside and heritage assets. The agent disputes the basis of the objections raised by the Environment Agency.

Officers are of the opinion that, despite the further information submitted by the agent, this does not change the policy position regarding the planning merits of the application, as detailed in the report below.

#### REASONS FOR REFERRAL TO COMMITTEE

At the request of the former Ward Member Councillor David Young to assess the issue of building within the Flood Zone and the Area of Outstanding Natural Beauty set against the need for an agricultural workers dwelling.

#### PARISH/TOWN COUNCIL

Cley Parish Clerk: Supports the application as it will allow a young family to move back into the Parish.

#### REPRESENTATIONS

Two Letters of objection have been received detailing the following material planning considerations:

- Risk of fluvial and tidal flooding on the site.
- The need for an agricultural worker has not been established.

#### CONSULTATIONS

County Council (Highway): No objections subject to the imposition of a condition ensuring access and onsite parking and turning area.

Norfolk Coast Partnership: No response received.

Environmental Health: No objection subject to the imposition of a condition regarding the investigation into possible contaminants.

Environment Agency (EA): Objection (comments of the 14<sup>th</sup> February 2019). The EA is of the opinion that the submitted Flood Risk Assessment (FRA) does not comply with paragraph 149 of the NPPF which requires local planning authorities to adopt proactive strategies to adapt to climate change, taking full account of flood risk and coastal change. In particular:

#### Fluvial Flood Risk - Actual Risk

- The River Glaven is undefended and the fluvial risk is an 'actual risk'. The most likely risk is therefore from the fluvial River Glaven where the EA is of the opinion that different climate change allowances have been used than those advised within the Planning Practice Guidance.
- The submitted FRA has not considered a satisfactory way of determining future fluvial flood levels.
- Whilst the planning application details a higher refuge at first floor available within the two storey development, as the climate change allowance has not been satisfactorily determined the depth of flooding is unknown including whether the development would flood at first floor level. Consequently, there may be an unacceptable risk to the health

and safety of the occupants in a flood event above the 1 in 1000 year fluvial flood event plus climate change.

Tidal Flood Risk – (Actual Risk) - The site is protected from tidal risk by defences which protect to the 1 in 200 year annual probability flood event (lifetime of the development). If the SMP policy is not taken forward the defences would overtop and actual risk from overtopping of the current defences if they are not raised in line with the SMP where flood levels could reach 3.1m AOD (defended 1 in 200cc) and 5.5m AOD (defended in 1:1000cc). The latter would be 1.21m above first floor level.

Tidal Flooding (Breach/Residual Risk) - The EA consider that the site is expected to flood from tidal flooding in an undefended situation. Based on the finished first floor level of 4.29m AOD in an undefended/breach situation, the site could experience depths of flooding up to 1.21m above first floor level in the undefended 0.5 (1 in 200) with allowance for climate change and up to 1.97m above first floor level. The proposed dwelling does not have safe refuge in a tidal extreme event of 1 in 1000 with climate change.

Sustained EA objection (comments 6 March 2019) due to the following areas:

- Incorrect methodology applied to determine future fluvial flood levels.
- It is unknown whether the building would have safe refuge in the event of fluvial flooding with 25% allowance for climate change in an extreme event.
- The proposed dwelling does not have safe refuge in a tidal extreme event of 1 in 1000 with climate change.

Landscape Officer: Objection. This site is within a highly sensitive landscape, designated Norfolk Coast AONB, the Cley and the Glaven Valley Conservation Areas and within the Undeveloped Coast.

The site is set within an open low-lying meadow which provides valuable natural open space, an important landscape feature separating the settlements of Wiveton and Cley. The existing single-storey farm buildings accessed via an unmade track on this site form low key features within this otherwise open landscape. The erection of a large detached two-storey building will introduce a degree of light pollution and domesticity to this area of open undeveloped landscape and as such is considered to be inappropriate development for this site.

The development would have an adverse impact on the defined special qualities of the Norfolk Coast AONB. In particular the 'Sense of remoteness, tranquillity and wildness' in this part of the AONB, partly gained by the dark night skies and low level of development.

For the reasons stated it is considered that the development would be contrary to Core Strategy Policies, EN 1, EN 2, EN 3 and EN 4 and therefore recommend refusal.

Conservation and Design Officer: Objection. The site is situated within the Cley and Glaven Valley Conservation Area. The site is isolated (physically and visually disconnected) from the settlement envelope and development pattern and accessed via a discrete unmade track off the Holt Road. The discrete and largely verdant character and appearance of the site ensures its existing presence cannot be overly felt within the highly sensitive landscape and historic environment context.

The site currently encompasses a number of single storey unremarkable built structures, including a fairly ramshackle tin shed, open metal framed shelter and a blockwork barn. There is a temporary and transient feel to the existing built form of the site which carries an overriding sense of informality and ad-hoc nature to how the site has evolved. The proposal to erect a two-storey building comprising a workshop and an agricultural workers dwelling would

represent a marked change to the sites character and its impact on the wider landscape. The application raises the following concerns:

- Position and siting – This sites informal character of low lying structures carry little presence and visual impact. Formalising the site through permanent residential occupation and domestication would carry harm to the unspoilt landscape setting of the area.
- Form and scale –The height and massing of the two storey development represents a significant increase in the existing built form. The rise in height of the buildings on site would increase visibility from further afield and the sites presence will be more readily felt from a number of key vantage points within the Conservation Area.
- Treatment and detailing – the design of the building is functional and utilitarian, perhaps to be expected given the associated use. However, this has also translated into some rather unfortunate details including the flat roof dormers which awkwardly cross cut eaves level, the fenestration proportions and areas of glazing which fail to translate to the vernacular styling of the host building.

It is therefore considered that the proposal:

- fails to comply with Policies EN4 and EN8 of the LDF Core Strategy.
- fails to preserve or enhance the character and appearance of the two designated conservation areas (i.e. it would not pay due regard to s72 of the 1990 Act)
- fails to accord with para 193 and 196 of the NPPF.

For the reasons stated it is considered that the development should be recommended for refusal.

Emergency Planning Officer: Objection, based on the following:

- The proposed development is in Flood Zone 3 and does not pass the sequential or the exception test.
- Planning Policy Guidance states that there should be no internal flooding in 'more vulnerable' developments from a design flood, however the ground floor of the building will be inundated to 300mm, before climate change allowances are applied.
- While the upper storey could be considered a place of refuge for a short period of time it will not be suitable for an extended period (no power etc.).
- The FRA does not state the depth to which this escape route (vehicular access route) would be flooded. However, the FRA suggests that this would exceed 15/30cm depths (maximum recommended depths for traversing floodwater by pedestrian and vehicular modes respectively) over the lifetime of the development.
- The fall-back position, if not evacuated in time e.g. in a breach of the flood defences, is for the occupants to seek temporary refuge upstairs. The first floor is the planned place of refuge but the building has not been designed to facilitate rescue from this location (i.e. external metal staircase).
- It is possible that the duration of flooding would prevent vehicular access by the emergency services for an unacceptably long period.
- The EP makes no reference to the evacuation of any animals.
- The emergency services are not listed as a consultee.
- Given the flood level from tidal flooding in an undefended situation will increase the scale of any evacuation and increase the burden on the emergency services.
- The proposed risk of flooding in a breach is not considered to be acceptable or safe.

## 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 (2008)**

Policy SS 1: Spatial Strategy for North Norfolk

Policy SS 2: Development in the Countryside

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

Policy EN 2: Protection and enhancement of landscape and settlement character

Policy EN 3: Undeveloped Coast

Policy EN 4: Design

Policy EN 8: Protecting and enhancing the historic environment

Policy EN 9: Biodiversity and geology

Policy EN 10: Flood Risk

Policy EN 13: Pollution and hazard prevention and minimisation

Policy CT 5: The transport impact on new development

Policy CT 6: Parking provision

### **National Planning Policy Framework (2019)**

Section 2 – Achieving sustainable development

Section 12 - Achieving well-designed places

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

Section 15 - Conserving and enhancing the natural environment

Section 16 - Conserving and enhancing the historic environment

## Statutory duties

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty.

There is a duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000).

When considering any planning application that affects a conservation area a local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of that area (S72 Listed Buildings and Conservation Areas Act, 1990).

## MAIN ISSUES FOR CONSIDERATION

1. Principle of Development
2. Flooding
3. Landscape
4. Heritage
5. Design
6. Amenity
7. Highways

## APPRAISAL

### **1. Principle of Development**

Policy SS 1 sets out the Spatial Strategy for North Norfolk and identifies settlements where new development will in principle be permitted. The remainder of the district is designated as Countryside and within it development is restricted to particular types of development. These are set out in Policy SS 2 which does not allow for new dwellings except in exceptional circumstances, one of which being dwellings required by agricultural or forestry workers. In addition, Policy HO 5 allows for development to meet the housing needs of full-time workers in agriculture, forestry and other essential workers connected with the land but only where the proposals comply with a number of criterion.

The Council engaged an agricultural consultant to review the planning application in terms of the essential need argument and any financial issues that arise from the proposal, as well as the general running of the farming enterprise. The existing and aspirational farming enterprise of the applicant is as follows:

7. The applicants supporting statement indicates that he lives in Field Dalling several miles from the site but that he visits the site daily.
  - The unit is run as a smallholding describing it as a family run business where he spends his spare time (evening and weekends) when not working on his main business of landscaping and plant hire contracting.
  - The business contains 30 cattle in total of which around 10 are breeding cows together with a bull and young stock of various ages. There is a desire to increase the numbers of breeding cows to nearing a 100 head of cattle with around 30-35 breeding cows.
  - The site contains a modern livestock shed suitable for housing and feeding the cattle over winter including an area of hardstanding for the storage of silage and straw.
  - The land holding extends to around 20 acres (8 hectares) of which 0.5 acres are owned and a further 2 acres adjacent are rented with some additional land held on a more loose arrangement. Additional land is said to be available however, little information regarding location, tenure or condition was provided.

Policy HO 5 of the adopted Core Strategy is quite clear in that the need for an agricultural workers dwelling within a 'countryside' location will only be supported in exceptional circumstances where both the functional and financial need has been established. Taking account of the appraisal of the scheme provided by the agricultural consultant and compliance with the criteria of Policy HO 5 of the adopted Core Strategy, all of which must be met. The Officer Assessment is as follows:

Criteria 1: That there is an essential need for one or more full time workers to be readily available at most times for the enterprise to function properly;

The agricultural consultant has provided detailed comments on the planning application and it is clear from both his views and an Officer opinion, that whilst it would be both desirable and convenient for the applicant to live on site, it has not been demonstrated that this is essential for the enterprise to function properly. Given the current livestock numbers, size of the holding, nature of the tenure and available security measures, it has not demonstrated that there is a functional need for a worker to live on site. It is considered that the business would need more than 100 cattle for the unit to become viable without an additional income.

The proposals fail to comply with this criteria.

Criteria 2: The functional need could not be met by another existing dwelling on the site of the enterprise or in the immediate vicinity;

The application submission states that the applicant could not afford to purchase housing in

the immediate vicinity/nearby villages. Whilst the agent has submitted a brief assessment of the average house price in Cley to purchase or rent, Officers do not consider this to be a full assessment of other available properties which are closer to the site than Field Dalling. Furthermore, the applicant has not demonstrated whether the funding source identified for the proposed dwelling would not also be available for the alternative purchase of a nearby house. Therefore, the Council cannot be satisfied that a property within the Cley area or another nearby village would be beyond the applicants means.

The proposals fail to comply with this criteria.

Criteria 3: That the business has been established for at least three years and is profitable.  
The application submission has not provided financial information regarding profit or turnover to confirm that the business has been in profit for the last three years or is in fact an ongoing viable business. In light of the agricultural consultant's report, the relatively limited size of the holding and the fact that the majority of the land is held on rental or short term agreements, the financial sustainability of the unit would appear limited to one of low level profits or self-sufficiency where it would not be considered sufficient to equate to one full time permanent worker.

The proposals fail to comply with this criteria.

Criteria 4: The proposal does not represent a replacement of another dwelling on the site that has been sold on the open market in the last five years, and;  
There is no evidence to suggest that this has occurred. The proposals comply with this criteria.

Criteria 5: The proposed dwelling is no larger than that required to meet the functional needs of the enterprise, nor would it be unusually expensive to construct in relation to the income that the enterprise could sustain in the long term.  
Despite the agent submitting an indicative cost of the proposed dwelling based on £1500 m2 (a commercial building rate) equating the total build cost to be £180,000. The application has not been supported by any financial information regarding the profit and turnover of the business. Therefore, the Local Planning Authority is unable to assess whether the construction of the house would be affordable on the basis of the viability of the business. The proposed size of the dwelling (2 bedroom) does not appear to be larger than required.

The proposals fail to comply with part of this criteria.

#### Temporary Dwelling

Policy HO 5 of the adopted Core Strategy states that where accommodation is required in relation to a newly created enterprise and where there has been insufficient time to demonstrate financial soundness, permission may be granted for a temporary dwelling in the form of a caravan or wooden structure which can easily be dismantled or removed from the site. This has also been recommended for investigation by the agricultural consultant. However, given the site context in both the functional and fluvial flood plain (zones 2, 3a and 3b), a temporary dwelling in the form of a caravan or wooden structure would not comply with Policy EN 10 of the adopted Core Strategy or Section 14 of the NPPF regarding flood risk.

To conclude, Officers consider that it has not been demonstrated that there is a functional need for a worker to live on site, the business case has not been proven nor have the financial tests been met, and insufficient information regarding alternative accommodation available has not been provided sufficient to justify the new dwelling. The development is therefore unjustified having found that there are no special circumstances to warrant a new isolated dwelling in the countryside. Therefore, the proposal is contrary to the requirements of policies SS 1, SS 2 and HO 5 of the adopted Core Strategy and would not comply with the exceptions noted under Paragraph 79 of the NPPF.

## **2. Flood Risk**

The site lies within Flood Zones 2, 3a and 3b and subject to both fluvial and tidal flooding as identified on the Councils updated Strategic Flood Risk Assessment (SFRA 2017). The applicant has submitted a Flood Risk Assessment (FRA) and a Flood Evacuation Plan, as well as supporting information in relation to applying the Exception Test. Both the Environment Agency (EA) and the Councils Emergency Planner have objected to the proposal on the following grounds.

### Fluvial Flooding

The submitted FRA does not comply with paragraph 149 of the NPPF, which requires local planning authorities to adopt proactive strategies to adapt to climate change, taking full account of flood risk and coastal change. The submitted FRA has not considered a satisfactory way of determining future fluvial flood levels and has used different climate change allowances to those advised within the Planning Practice Guidance. The resulting effect is that flood risk mitigation measures to address flood risk for the lifetime of the development included in the design event are inadequate because they will not make the development resilient to the flood levels for safe, dry refuge above the 1 in 1000 annual probability flood level with climate change.

The proposed building would flood internally by an unknown depth and as climate change has not been correctly considered it is unknown as to whether the development would flood at first floor level. Consequently, there may be an unacceptable risk to the health and safety of the occupants in a flood event above the 1 in 1000 year fluvial flood event with climate change.

### Tidal Flooding

The EA has confirmed that the site is currently defended through The Hunstanton to Kelling Hard Shoreline Management Plan (SMP). The SMP currently has a policy to 'Hold the Line' until 2105. This means that the site is protected by the existing flood defences and is not at risk of flooding under the present day 1 in 200 annual probability flood event. The EA advises that the defences will continue to offer protection over the lifetime of the development. The lifetime of a residential development is generally considered to be 100 years. If the SMP policy is not taken forward the defences would overtop and the development would be unsafe in the future.

However, the EA has advised that the SMP policy to 'Hold the Line' is aspirational and subject to future funding. Therefore, given that the site is located in Flood Zone 3a and 3b, it is classed as a 'more vulnerable' development as defined in the Planning Practice Guidance (PPG) and has a high probability of flooding should the defences not be maintained.

Despite the site not being at risk of flooding in the 1 in 200 annual probability flood event subject to the SMP policy. The EA advise that there is an actual risk from overtopping of the current defences if they are not raised in line with the SMP where at the end of the development lifetime the 1 in 200 annual probability flood level, including climate change, flood levels could reach 3.11m AOD. The resulting actual risk depth of flooding on the site using the minimum site level of 2.5 m AOD would be 0.61 m deep, and in the building using the proposed finished first floor levels of 4.29m AOD **would be dry by 1.18m from site level.**

Furthermore, at the end of the development lifetime with climate change applied to the design 1:1000 annual probability flood event, if the SMP policy is not followed then, through overtopping of the current defences, the resulting on-site flood level would be 5.5m AOD. The resulting actual risk depth of flooding on the site using the minimum site level of 2.5 m AOD would be 3m deep, and in the building using the proposed finished first floor levels of 4.29m AOD and **would flood at 1.21m above first floor level.**



Put simply, the site will flood if the SMP policy is not followed through. Overtopping of the flood defences in both the 1:200 and 1:1000 annual probability flood events would occur, the latter resulting in flooding above the first floor level.

The worst case scenario is that the defences are not maintained and a breach of the flood defences occurs. This is deemed as “residual risk”. Having reviewed the floor levels of the proposed development, the EA consider that the site is expected to flood from tidal flooding in an undefended situation. Based on the finished first floor level of 4.29m AOD in an undefended/breach situation the site could experience depths of flooding up to **1.21m above first floor level** in the undefended 1 in 200 with allowance for climate change and up to **1.97m above first floor level** in the undefended 1 in 1000 with allowance for climate change.

EA guidance states that proposals for ‘more vulnerable’ development should include floor levels set no lower than 300 mm above the level of any flooding that would occur if defences were overtopped in a 1% / 0.5% flood event (including allowances for climate change). Safe refuge should also be provided above the 1 in 1000 undefended/breach flood level. Therefore, not only will the site flood in every scenario, the EA raise an objection as the proposal does not provide safe refuge in the tidal extreme event in the 1 in 1000 undefended/breach flood level.

#### Sequential and Exception Test

Where development is proposed in a high risk flood zone it is for the Local Planning Authority to apply the Sequential Test and if necessary the Exception Test in accordance with the NPPF. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding.

The Sequential Test is set out in Paragraph 158 of the NPPF where it states;

*The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding.*

In this case, the site lies within flood zones 2, 3a and 3b. It is therefore necessary for the applicant to demonstrate that a sequentially preferable location would be unavailable to accommodate the proposed development. Only where there are no alternative reasonably available sites elsewhere in areas at a lower risk of flooding should sites in flood zone 3 be considered. No such assessment of sites has been provided with the application. Furthermore, the proposal is not considered to have passed the functional need for the applicant to permanently reside on site as required by Policy H O5 of the adopted Core Strategy. The Local Planning Authority therefore considers the sequential test has not been passed.

If it were accepted that the sequential test had been met, the applicant would need to demonstrate compliance with the exceptions test, as detailed in Paragraph 160 of the NPPF.

- *the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*
- *the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*

In respect of the exceptions test, both elements should be satisfied for any development to be permitted.

With regard to the first element, whilst the agent contends that the provision of the dwelling and business would provide wider sustainability benefits to the community. It is considered that a net increase of 1 dwelling to the housing supply would be limited. Additionally, given the small scale size of the business and limitations to its expansion, the contribution that the proposal would make both economically and socially is modest where this is not considered to outweigh the risk of flooding. With regards to the second part of the test, any application would need to demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. Both the EA and the Council's Emergency Planner do not consider that the FRA has demonstrated that the development will be safe for its lifetime. Therefore, the application fails to comply with the exceptions test.

#### Food Evacuation and Response Strategy

Whilst a Flood Response Strategy has been provided as part of the FRA, the Council's Emergency Planner has confirmed that they are not satisfied that the scheme can demonstrate that the occupants would be safe from a fluvial or tidal flood event. Furthermore, they are not satisfied that adequate flood resilience, resistance and mitigation measures including a flood evacuation plan has been provided or that future occupants (and animals) would have a safe access/egress during a flood event.

#### Summary

The site is within Flood Zones 2, 3a and 3b where Officers consider that the Sequential and Exception tests as set out in the NPPF have not been met. The EA considers that the submitted FRA has not considered a satisfactory way of determining future fluvial flood levels and has used different climate change allowances than those advised within the Planning Practice Guidance. Therefore, the risk in a fluvial flood event cannot be fully determined. Furthermore, the application has not demonstrated that the development will be safe in the life time of a flood event or that the site would have safe refuge in an extreme flood event. Additionally, the submitted FRA is not considered to have satisfactorily demonstrated adequate flood resilience, resistance and mitigation measures including a flood evacuation plan and that future occupants (and animals) would have a safe access/egress during a flood event. Therefore, Officers consider that the proposed development is not in accordance with the adopted Core Strategy Policy EN 10 and Section 14 of the NPPF.

Whilst the agent contends the grounds of the objection from the EA in terms of the methodology used for calculating the fluvial flood, in light of the agent's additional submission in support of the application, Officers have queried the floor level calculations used by the EA. Members will be updated orally at the meeting.

### **3. Landscape and Visual Impact**

The site is located within a sensitive designated landscape, set within the Norfolk Coast Area of Outstanding Natural Beauty (AONB) and Undeveloped Coast. The combination of wide former estuary landscapes with large skies make the site and its surrounding environs typical of the feature landscapes of this part of the AONB.

In considering landscape impact, Policy EN 2 of the Core Strategy requires development proposals to be informed by, and sympathetic to, the distinctive landscape character type. As identified in the North Norfolk Landscape Character Assessment (June 2009 SPD), the site lies within the Large Valleys Landscape Type (LV3 Wiveton to Letheringsett) and is characterised by strong historical coastal appearance where the landscape is very sensitive to minor changes in architectural or land use, where particular issues such as creeping

suburbanisation could create a generic appearance. Outdoor lighting, extensions to garden areas (especially on the floor of the valley where these have an adverse effect on ecology) and means of enclosure (fences, inappropriately fancy walls and gates etc.) would all have a detrimental effect on character.

Whilst the proposed dwelling would be located on the footprint of an existing single storey building, it is significantly larger in form, scale and massing and will result in increased visual presence in the wider landscape. Furthermore, it is considered that permanent residential occupation and intensification of development with associated domestication would be at odds with the landscape type qualities noted within the North Norfolk Landscape Character Assessment. It is therefore considered that the proposed development does not comply with Policy EN 2 of the adopted Core Strategy.

Members will be aware that the Council is out for consultation on the First Draft Local Plan which if adopted will replace the current North Norfolk adopted Core Strategy (2008). Part of the evidence base for the First Draft Local Plan includes the Draft Landscape Character Assessment (November 2019). Whilst limited weight can be afforded to the document at this stage, it is observed that the risk of suburbanisation continues to be recognised as having a detrimental effect on the River Valley landscape character. Thus reaffirming the Council's position of the landscape impact of the proposed development.

The site lies within the designated Norfolk Coast AONB. Policy EN 1 of the Core Strategy states that development proposals that have an adverse effect on the special qualities of the AONB will not be permitted unless it can be demonstrated that they cannot be located on alternative sites that would cause less harm and the benefits of the development clearly outweigh any adverse impacts. This approach accords with Paragraph 172 of the NPPF which requires great weight to be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty.

The site lies within an area classified as 'Undeveloped Coast' where Policy EN 3 of the adopted Core Strategy states that 'within the Undeveloped Coast, only development that can be demonstrated to require a coastal location and that will not be significantly detrimental to the open coastal character will be permitted'. The purpose of the designated Undeveloped Coast is to maintain the special undeveloped character and appeal of the coastal region where non-essential development in such locations can have a resultant cumulative effect on the landscape and on biodiversity, resulting in the gradual 'creep' of development into protected areas and erosion of landscape character. This can become further pronounced as a result of additional light pollution associated with such development.

It is not considered that the proposed use 'requires' a coastal location. Furthermore, it is considered that the proposed dwelling would have a detrimental impact upon the open coastal landscape character of the area where its visible presence will be intrusive within the landscape. As such, it is considered that the proposed use is contrary to Policy EN 3. The Council's approach towards development within the Undeveloped Coast accords with Paragraph 170 of the NPPF which states that Local Planning Authorities should maintain the character of the undeveloped coast, protecting and enhancing its distinctive landscapes.

In addition to the localised landscape impact as identified under Policies EN 2 and EN 3 above, it is considered that the proposed development would have an adverse impact upon the rural setting of the AONB and its special qualities; by eroding the location's remoteness, sense of tranquillity and undeveloped character. It is not considered that other sites have been considered, nor is it considered that the benefits of the development outweigh the identified impact upon the AONB, in particular when combined with the impact upon local landscape character and the Undeveloped Coast. As such, the proposed development is considered to be contrary to the aims of Policy EN 1 of the adopted Core Strategy.

Having assessed the proposed development, it is considered that the proposed dwelling would have an adverse impact on the landscape character of the area and the special qualities of the AONB. As such the development constitutes a breach of Policies EN 1, EN 2 and EN 3 of the adopted Core Strategy and Section 15 of the NPPF.

## **5. Heritage**

The Development Committee is required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act 1990) to have special regard to the desirability of preserving or enhancing the character or appearance of a conservation area. This is not a mere material consideration to which appropriate planning weight can be attached, 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. The more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to the significance.'*

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 securing its optimum viable use.'*

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

The site lies within the Cley and Glaven Valley Conservation Area. The site is set within an isolated marshland setting and encompasses a number of discreet single storey structures where the sites visible presence within the wider Conservation Area is unobtrusive. Whilst the functional design concept has taken reference from the buildings on site, it is considered that the two storey form of development at approximately 8.5 metres in height, in combination with the permanency of residential occupation, would be incongruous within this unspoilt landscape. As a consequence, the proposed development would result in the sites increased visibility from key vantage points within the Conservation Area.

It is considered that development of the site as proposed would result in less than substantial harm to the significance of the Cley and Glaven Valley Conservation Area and would fail to accord with the requirements of Policy EN 8 of the adopted Core Strategy. Given the limited public benefit to outweigh the harm identified, the proposal would fail to comply with the provisions of paragraphs 193 and 196 of the NPPF and are therefore contrary to the statutory duties of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## **5. Design**

Core Strategy Policy EN 4 requires development proposals to be 'suitably designed for the context within which they are set' and 'ensure that the scale and massing of the buildings relate sympathetically to the surrounding area'. In addition, Paragraph 130 of the NPPF states that 'permission should be refused for development of poor design that fails to take the

opportunities available for improving the character and quality of an area and the way it functions’.

In this particular case, given the context of the site which contains a number of single storey buildings, namely a tin shed, open metal framed shelter and a blockwork barn, Officers can understand the more functional and utilitarian design concept to the scheme employing a mix of red brick and timber cladding for the walls and profile metal sheet for the roof. However, not only do Officers consider that the elevations portray poor design details, given the informal character of the site, where the existing single storey structures carry little visual presence in the wider landscape, a proposed dwelling at approximately 8.5 metres in height will present a significant increase in the existing built form within this sensitive setting. As such, despite the agent’s contention to the contrary, the increase in scale and massing of the proposed built form is not considered to relate sympathetically to the surrounding area or immediate context.

It is therefore considered that the combination of the siting, scale, massing and design fails to comply with the requirements contained within Policy EN 4 of the adopted Core Strategy. Furthermore, the development is not considered to relate ‘sympathetically to the local character, including the surrounding built environment and landscape setting’ as required by paragraph 127 of the NPPF.

## **6. Amenity**

In terms of amenity space provision, Section 3.3.10 of the North Norfolk Design Guide (NNDG) recommends that the area of the plot given over to private amenity space should be no less than that of the footprint of the dwelling. The proposal accords with the requirements of the NNDG.

As far as the relationship with neighbouring properties is concerned, the site is physically and visually disconnected from the village of Cley accessed via an unmade track some 120 metres west of Holt Road. The site contains no neighbouring properties in the immediate vicinity.

It is therefore considered that the proposed dwelling would not give rise to unacceptable impacts upon neighbouring residential amenity and would accord with the requirements of policy EN 4 of the adopted Core Strategy.

## **6. Highways Safety and Parking**

It is proposed that the existing private driveway off Holt Road will be used to access the site. No objection has been raised by the Highway Authority in regard to safe access and turning arrangements. Based on the parking standards contained in Appendix C of the North Norfolk Core Strategy and Policy CT6 the development would require the following levels of car parking:

- 2 bed dwellings: 2 spaces per unit.

Based on the layout proposed the development would accord with these requirements. The development proposed is therefore considered to be in accordance with the aims of policies CT 5 and CT 6 of the adopted Core Strategy.

## **7. Conclusion**

In summary, the application has raised a number of concerns in relation to the following:

- The principle of residential development: it has not been demonstrated that there is a functional need for a worker to live on site, the business case has not been proven nor have the financial tests been met, and insufficient information regarding alternative accommodation available has not been provided sufficient to justify the new dwelling. The development is therefore unjustified having found that there are no special

- circumstances to warrant a new isolated dwelling in the countryside
- The risk to life from flooding, both fluvial and tidal, where the FRA does not demonstrate that the occupants would be safe during a flood event
- The design, including the scale, massing and design of the proposed building, and
- The resulting impact on the appearance of the Area of Outstanding Natural Beauty, and the character and appearance of the Cley and Glaven Valley Conservation Area.

## **RECOMMENDATION:**

**Refuse** planning permission for the following reasons:

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 SS 2: Development in the Countryside  
 Policy HO 5: Agricultural, Forestry and Other Occupational Dwellings in the Countryside  
 Policy EN 1: Norfolk Coast Area of Outstanding Natural Beauty and The Broads  
 Policy EN 2: Protection and enhancement of landscape and settlement character  
 Policy EN 3: Undeveloped Coast  
 Policy EN 4: Design  
 Policy EN 8: Protecting and enhancing the historic environment  
 Policy EN 10: Flood Risk

NPPF Section 2: Achieving sustainable development  
 NPPF Section 4: Decision-making  
 NPPF Section 12: Achieving well-designed places  
 NPPF Section 14: Meeting the challenge of climate change, flooding and coastal change  
 NPPF Section 15: Conserving and enhancing the natural environment  
 NPPF Section 16: Conserving and enhancing the historic environment

It is the opinion of the Local Planning Authority that:

1. The erection of an agricultural workers dwelling is contrary to the aims and objectives of the above policies and the National Planning Policy Framework Paragraph 79, in that the applicant has failed to demonstrate that the livestock at the premises is of sufficient number to require the essential need for one or more full time workers to be readily available at most times and, for animal welfare purposes, the need for a rural worker to live permanently at or near their place of work in the countryside and that the livestock element of the enterprise is viable. In the absence of a justification for agricultural residential occupancy the proposal would be contrary to the above policies as the site lies outside an area in which the Local Planning Authority would normally allow residential development.
2. The proposed development lies within an area designated by the Environment Agency as Flood Zone 2, 3a and 3b. The submitted Flood Risk Assessment has failed to establish to the satisfaction of the Local Planning Authority that:
  - Climate change allowances have been correctly calculated and future fluvial flood levels have been determined appropriately.
  - The development and its occupants would be safe in the event of a 1 in 1000 year fluvial flood event or a 1 in a 100 year tidal extreme event.
  - The proposal fails to comply with the Sequential Test as the applicant has failed to

demonstrate that there are no other sites available at a lower risk of flooding in the area.

- The proposal fails to comply with the Exception Test as whilst there are modest social and economic benefits of the development to the local community this is not considered to outweigh the flood risk issues.
- The applicant has failed to demonstrate that adequate flood resilience, resistance and mitigation measures including a flood evacuation plan are proposed and that future occupants and animals would have safe access/egress during a flood event

Consequently, it is the opinion of the Local Planning Authority that the proposed development is contrary to Policy EN 10 of the adopted Core Strategy and Paragraphs 149 and 158-163 because there would be an unacceptable risk to the building and the safety of the future occupiers in the event of a flood.

3. The proposed development would result in less than substantial harm to the Cley and Glaven Valley Conservation Area by reason of the position of the proposed dwelling within a sensitive landscape setting and by reason of the poor design, scale and massing, which results in a development which fails to preserve or enhance the form and character of the Cley and Glaven Valley Conservation Area. Therefore, the proposal is contrary to policy EN 8 of the adopted North Norfolk Core Strategy. Furthermore, given the limited public benefit to outweigh the harm identified, the proposal would fail to comply with the provisions of paragraphs 193 and 196 of the NPPF.
4. 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 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 Large Valleys Landscape Type (LV3 Wiveton to Letheringsett) local landscape character and setting, contrary to Policy EN 2.
5. The site is within an area designated as Undeveloped Coast where 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 Undeveloped Coast, contrary to Policy EN 3 of the adopted Core Strategy and Paragraph 170 of the NPPF.
6. The proposed development, by virtue of its overall design, siting, scale and massing would result in an unsympathetic form of development which is not appropriately designed for the context in which it is set and would fail to preserve or enhance the character and quality of the area, contrary to Policy EN 4 of the adopted Core Strategy and Paragraphs 127 and 130 of the NPPF.