

INGHAM - PF/21/0797 – Two storey detached dwelling; driveway and access to Palling Road; tree and hedgerow planting and formation of pond; Land north of Palling Road, Ingham for Mr Tom Collier

Minor Development

- Target Date: 21 May 2021

Case Officer: Mr D Watson

Full Planning Permission

RELEVANT SITE CONSTRAINTS

- LDF – Countryside
- Landscape Character Area
- LDF Tourism Asset Zone
- Areas Susceptible to Groundwater SFRA - Classification: $\geq 25\%$ $< 50\%$
- Flood Zone 3 - Flood Zone 1:200 & 1:1000 chance: Flood Zone 3
- Flood Alert Area SFRA
- Flood Warning Area SFRA
- Landscape Character Area - Description: Coastal Plain
- Flood Zone 3A SFRA -
- EA Risk Surface Water Flooding 1 in 100 - Risk of Flooding (1% annual chance): 1 in 100 (along the edge of Palling Road only)
- EA Risk Surface Water Flooding 1 in 1000 - Risk of Flooding (0.1% annual chance): 1 in 1000 (along the edge of Palling Road only)
- EA Risk Surface Water Flooding + CC - SFRA - Risk SW Flooding + Climate Change: (along the edge of Palling Road only)

RELEVANT PLANNING HISTORY

PF/19/1978: Erection of two storey detached dwelling and garage - withdrawn

PF/20/2041: Two storey detached dwelling and detached garage and stables - withdrawn

THE APPLICATION

A two storey detached 5-bedroom dwelling with a total floor space of approximately 414 sq.m is proposed. It would sit back approximately 125 metres from Palling Road within a large site 3445 sq.m in area. A detached single storey building comprising a 3 car garage with a store in the roof space above and two stables would be located to the south east of the dwelling adjacent to the east boundary of the site. A new vehicular access and driveway would link the site to Palling Road. Mixed native species tree and hedge planting is proposed in the area to the south of dwelling either side of the access, with a pond adjacent to the northern boundary of the site.

The application site is off the northwest side of Palling Road to the northeast of Ingham and forms part of a large arable field bounded by Palling Road and Long Lane. A farm track which is also a Public Right of Way runs adjacent to the east boundary of the site. It is within the area designated as Countryside under Policy SS 1 of the North Norfolk Core Strategy and is within Flood Zone 3a.

REASONS FOR REFERRAL TO COMMITTEE

At the request of Cllr Lucy Shires for the following reasons:

- The Environment Agency have now removed their objection on flood risk grounds so the only area of contention is the fall-back position.
- The scheme certainly is in conflict with the development plan and that is acknowledged. The principle of the conversion of the barn is also in conflict with the development plan.
- Whilst the extant permission has yet to be enacted, it will be if this permission is refused so a dwelling will be built in conflict with the development plan.
- A Section 106 agreement to surrender the extant permission to convert the barn could be entered into. The proposed planting could be rolled into this agreement.
- The application building is a similar size to approved conversion

PARISH/TOWN COUNCIL

Comment as follows:

- Over development in an open field site.
- Doesn't appear to fall within the same site as some 700m away from the building it replaces.
- The proposed development is in open countryside and would have a detrimental impact on the landscape
- The structural engineer's report notes that the existing barn is suitable for conversion. As there are adjacent buildings this would be a more appropriate option with less impact to the area as a whole

REPRESENTATIONS

None received

CONSULTATIONS

Norfolk County Council (Highways): with regards to highway safety, given the alignment of the C641 Sea Palling Road in the vicinity of the site and the apparent ownership of adjacent land offering the opportunity to provide access visibility sightlines, it is considered very difficult to sustain an objection.

It is nevertheless considered to be a totally unsustainable location in terms of access to services relying totally on a car. Whilst in the case of a single dwelling the Highway Authority would not cite this as grounds for objection, this concern is certainly for the Local Planning Authority to take into account when making an overall decision on the proposal's acceptability.

In the event that the application is approved a number of conditions and an informative are requested.

Environment Agency: following the receipt of further information have no objection, providing the Local Planning Authority have taken into account considerations which are its responsibility. These include the Sequential and Exception Tests, which as the site is within tidal flood zone 3a, the application must pass to comply with national policy.

Landscape Officer NNDC: objects commenting that the proposed dwelling has significant scale and height and would be extremely prominent in this open and rural setting, with no other buildings located nearby.

The site is within the Coastal Plain (CP1) Bacton to Waxham Landscape Character Type, but is close to the boundary with the Settled Farmland (SF1) Landscape Character Type (North Norfolk Landscape Character Assessment, 2021). The strong sense of remoteness, tranquillity and wildness (including dark skies) in undisturbed areas is a valued feature and quality of this landscape type. The introduction of this sizable dwelling and associated garaging, stables, access and amenity areas would significantly erode this valued feature of the landscape through the introduction of:

- the built form in a currently undisturbed agricultural setting;
- visual and noise disturbance associated with the use of the building as a domestic dwelling (e.g. vehicular movements, use of garden areas for play and domestic uses, deliveries in a rural location), including associated uses through the provision of stables; and
- light pollution with the introduction of both light spill from the dwelling and any external lighting.

The demand for isolated new homes in this Landscape Character Type is recognised as a force for change, with large scale buildings of non-traditional character together with lighting significantly detracting from the prevailing landscape character features. The landscape guidelines for this Type is to conserve the sense of rurality by maintaining the open and rural landscape. The introduction of a large new dwelling in a very open part of the landscape would not conserve the sense of rurality and would therefore not maintain or enhance the landscape character. The Landscape Officer considers the development does not therefore meet with the requirements of Policy EN 2 which states that development should be informed by, and be sympathetic to, the distinctive character areas identified in the North Norfolk Landscape Character Assessment and should demonstrate that their location, scale, design and materials will protect, conserve and, where possible, enhance the special qualities and local distinctiveness of the area.

Norfolk County Council Public Rights of Way & Green Infrastructure: no objection in principle, but highlight that a Public Right of Way (Ingham Footpath 6), is aligned along the track to the east of the application site. The full legal extent of this footpath must remain open and accessible for the duration of the development and subsequent occupation

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

National Planning Policy Framework (NPPF):

Section 2 – Achieving sustainable development
Section 4 – Decision-making
Section 5 – Delivering a sufficient supply of homes
Section 9 – Promoting sustainable transport
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

North Norfolk Core Strategy Policies:

SS 1 - Spatial Strategy for North Norfolk
SS 2 - Development in the Countryside
EN 2 - Protection and enhancement of landscape and settlement character
EN 4 – Design
EN 10 – Development and Flood risk
CT 5 - The transport impact of new development
CT 6 - Parking provision

Supplementary Planning Documents

North Norfolk Design Guide (December 2008)
North Norfolk Landscape Character Assessment (January 2021)

MAIN ISSUES FOR CONSIDERATION

- Whether the proposed development is acceptable in principle and the site is an appropriate location for the development having regard to the development plan
- Flood risk
- The effect of the development on the character and appearance of the area
- The effect on the surrounding road network and whether there would be adequate parking provision
- The weight to be attached to the suggested 'fall-back' position as a material consideration, in the overall planning balance

APPRAISAL

Principle: policies SS 1 and SS 2

The site is within the area designated as Countryside under policy SS 1 of the Core Strategy which sets out the spatial strategy for the District and identifies areas that would be suitable for future development. Policy SS 2 lists the types of development that can be acceptable in principle within this area, but new market dwellings as proposed are restricted in order to prevent dispersal of residential uses that may otherwise will lead to a dependency on travel by car to reach basic services, ensure more sustainable patterns of development, and to protect the intrinsic landscape character of the Countryside. Recent appeal decisions have confirmed that these policies remain consistent with the NPPF in respect of setting an overall strategy for the distribution of sufficient housing and focusing significant amounts in locations which are sustainable, thus limiting the need to travel, offering a choice of transport modes and helping to reduce congestion and emissions, so as to improve air quality and public health.

The site is approximately 2.6km from Stalham which is defined as a Secondary Settlement under Policy SS 1 which has a reasonable range of services. Whilst there is a bus service (Sanders 34) that runs between North Walsham and Stalham via Ingham its route is via Ingham Corner and does not pass the application site. The service is in any event limited and only operates Monday to Friday. The road to Stalham has no footways and is unlit up to the edge of Stalham and for the most part is subject to the national speed limit. This, in combination with the distance, means that walking to reach facilities in Stalham would not be a realistic option. Stalham is within a reasonable cycling distance, but the road is generally narrow, unlit and can also be busy at times being a route to the coast. It is therefore considered that cycling would not be an attractive alternative to the private car particularly during bad weather or winter months.

It is noted there are some dispersed facilities such as a butchers on Palling Road (1000m away), a farm shop on Stalham Road (1800m) close to Sea Palling and a pub/restaurant at Ingham (600m) closer to the site, but similarly because of the constraints of the roads, it is likely that the majority of people would access these by car. Furthermore, other facilities such as employment, medical services, education and larger stores are further afield in Stalham. Consequently, it is considered that the site is functionally isolated and that occupiers of the proposed development would be very likely to rely on the use of the private car to access to almost all of the day-to-day services and facilities they would require.

The site is not physically isolated within the consideration under paragraph 79 of the NPPF as the closest dwelling is less than 200 metres away and in any event, the proposal would not comply with any of the circumstances listed in para 79 that can allow for an isolated home in the countryside. With regard to paragraph 78 of the NPPF, this states that policies should identify opportunities for villages to grow and thrive, especially where this will support local services and that where there are groups of smaller settlements, development in one village may support services in a village nearby. The site is however outside of the closest settlement.

The Planning Practice Guidance (PPG) notes that a wide range of settlements can play a role in delivering sustainable development in rural areas, so blanket policies restricting housing development in some types of settlement will need to be supported by robust evidence of their appropriateness. As referred to in a recent appeal decision (dated 17/09/2020) relating to a site in Erpingham where unlike the current case, there were a number of facilities within walking distance of the site *"policies SS 1 and SS 2 are firmly supported in this respect by the correlation between the locations for growth and the availability of an appropriate level of supporting services and infrastructure. This part of the PPG does not contradict the broader Framework principles for achieving sustainable development"*.

The proposed development would not be a suitable location for housing, having regard to the spatial strategy for the area and the accessibility of services and facilities. It therefore conflicts with Policies SS 1 and SS 2 of the Core Strategy. and paragraph 78 of the National Planning Policy Framework which seek, amongst other things, to promote sustainable development within rural areas

Flood risk

The site is within tidal Flood Zone 3a which is defined by the Government's Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. Following the receipt of further information, the Environment Agency (EA) have removed their initial holding

objection. With regard to the Flood Risk Assessment that has been undertaken they have highlighted the key points within it with regard to actual risk which are as follows:

- The site lies outside the flood extent for a 0.5% (1 in 200) annual probability event, including an allowance for climate change.
- The site does benefit from the presence of defences.
- Finished ground floor levels have been proposed at 2.94m AOD. This is above the 0.5% (1 in 200) annual probability flood level including climate change and therefore dry of flooding in this event.
- The site level is a minimum of 1.90 m AOD and therefore flood depths on site are 0m in the 0.5% (1 in 200) annual probability flood event including climate change.
- Assuming a velocity of 0.5m/s the flood hazard is very low hazard in the 0.5% (1 in 200) annual probability flood event including climate change.
- The development would have a safe means of access in the event of flooding from all new buildings to an area wholly outside the floodplain up to a 0.5% (1 in 200) annual probability including climate change flood event.
- Compensatory storage is not required.

With regard to the residual risk the EA advise that following:

- EA data shows that in a worst-case scenario the site could experience undefended flood depths of up to 4.88 metres during the 0.5% (1 in 200) annual probability including climate change breach flood event and up to 5.59 metres during the 0.1% (1 in 1000) annual probability including climate change breach flood event.
- Assuming a velocity of 0.5m/s the flood hazard is danger for all including the emergency services in the 0.5% (1 in 200) annual probability flood event including climate change.
- Finished ground floor levels have been proposed at 2.94m AOD. This is below the 0.5% (1 in 200) annual probability breach flood level including climate change of 4.88m AOD and therefore dry of flooding by 1.94 m depth in this event.
- Flood resilience/resistance measures have been proposed.
- Finished first floor levels have been proposed at 5.59 m AOD and therefore there is refuge above the 0.1% (1 in 1000) annual probability breach flood level including climate change of 5.59m AOD.
- A Flood Evacuation Plan has been proposed

Based on the EA's advice, the risk from flooding is minimal, the development would be likely to be safe and not increase flood risk elsewhere. To be acceptable in terms of flood risk however, and to comply with national policy as a dwelling is classified as a 'more vulnerable' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Government's Planning Practice Guidance; the development must also pass both the Sequential and Exception tests. The local planning authority is responsible for deciding whether an application passes the sequential test, taking into account the particular circumstances in any given case as part of its consideration.

The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding, i.e. flood zone 1. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The developer should justify with evidence to the local planning authority what area of search has been used when making the application. In this case the applicant has not provided such evidence with the application only a statement within the Planning Statement that the

proposed development “*is an exchange for a building that already has permission within the same flood zone area so there is no change in the flood risk so a sequential test should not be required*”. This is not accepted as the proposal for a new building on a different site and changes of use are not subject to the test except in specific circumstances. It is considered that the geographical extent of the appropriate area for the Sequential Test in this case would need to be district-wide that as there is no evidence of an overriding need or requirement for the proposal to be located at or even near on the application site.

It is therefore considered that the Sequential test has not been passed and as such is not necessary to consider the Exception Test. The proposed development is therefore contrary to Policy EN 10 of the Core Strategy and national planning policy relating to flood risk.

Character and appearance of the area

The site sits within generally flat open landscape and forms part of a large parcel of agricultural land with open boundaries along much of its southeast boundary to Palling Road and its boundary to Long Lane to the west. There are some trees along the boundary with the farm track that adjoins the east boundary of the site. The proposed dwelling would be substantial in terms of its scale and height. Its wide gables push the ridge level up to 10 metres in order to maintain the desired roof pitch. The scale and footprint of the separate garage/stable building with a 16-metre long continuous ridge is also considered substantial for an ancillary building.

Because of the openness of the site especially in views northwards from Palling Road, the proposed development would be readily apparent and extremely prominent in this open and rural setting, with no other buildings located nearby within these views. In views westward from Palling Road the sporadic trees along the boundaries of the adjacent farm track would provide some filtering but it is considered this would not be significant particularly during winter months. There would be less impact in views from Long Lane due to the distance.

With respect to the proposed planting and the potential screening effect of this to diminish the landscape and visual effects of the new development, while supplementary planting is proposed as mitigation this would take several years to provide any effective screening. Furthermore, in landscape and design terms screening the development does not necessarily make it acceptable. The development should be compatible with its surrounding landscape character and context without the need for concealment by vegetation screening, which in this instance the proposals do not achieve.

Consideration also needs to be given to the visual impacts of the residential use such as the vehicle movements and parking associated with the development. In addition, fencing, external lighting, domestic cultivation and items such as garden furniture and washing lines for the new dwelling would add to the overall effect of the development on this rural location.

The strong sense of remoteness, tranquillity and wildness (including dark skies) in undisturbed areas is a valued feature and quality of the landscape type within which the site is located. The introduction of this sizable dwelling and associated garaging, stables, access and amenity areas would significantly erode this valued feature of the landscape resulting in harm to the character and appearance of the area. The proposal therefore conflicts with Policy EN 2 which seeks, amongst other things, to ensure that developments respect and enhance the special character and local distinctiveness of an area.

Highways and parking: policies CT 5 and CT 6

The Highway Authority raised safety concerns in respect of the access as proposed under the previous and subsequently withdrawn application (PF/20/2041). The access position has been amended as part of the current application and the the Highway Authority have no concerns in this respect. The proposal is therefore considered to comply with Policy CT 5.

There would be plenty of space within the site to provide parking in accordance with the current adopted standards and turning, such that the proposal would comply with Policy CT 6.

Fall-back position and other material considerations

As outlined above, the erection of a dwelling in this location is a clear departure from Core Strategy Policy and contrary to national guidance relating to the location of new development. The location, whilst not isolated, is remote from services and occupants would be car dependant for all day to day needs. Such dispersed patterns of development which increase the need to travel are unsustainable and fail to address the impacts of climate change.

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Therefore, the proposal could only be considered acceptable in this location if there are other material considerations in favour which outweigh the conflict with policies SS 1 and SS 2.

Fall-back

A fall-back position i.e. what would be the alternative use the site or development that could be carried out if planning permission was refused, is a material planning consideration. This can include development that can be carried out under permitted development rights.

As a fall-back option in this case, the applicant is citing the existing permission under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 relating to the conversion of an agricultural building/barn at Manor Farm, Sea Palling Road, Ingham to a dwelling. Prior approval was given on 9 October 2020 (ref. no. PU/20/0577). The permission only relates to the conversion of the building and the building operations reasonably necessary for the conversion. The area of the curtilage cannot be any greater than that of the footprint of the building and no ancillary development such as garaging forms part of the approval. Whilst the barn is an equally as unsustainable location as the dwelling proposed, as this is not a consideration under Class Q, so there is no direct comparison in this respect

The building at Manor Farm on a separate site about 760 metres to the east of the current application site. As such it cannot reasonably be as an alternative development that could be carried out on the site if the application was refused. In the Planning Statement supporting the application, it is stated that *"it is not intended to demolish the barn; however, we are offering to enter into a Section 106 agreement to give up the rights on all the buildings to carry out any other development under permitted development"*. On that basis it is considered that the existing permission can be taken into account

The weight to be attached to the possible fall back development should take proper account of the likelihood of such a fall back happening and should compare the relative merits of the fall back and the proposed development. The Courts have held that, in order to be a material consideration, a fall-back only has to have "more than a merely theoretical prospect". While the likelihood of the

fall-back occurring may affect the weight to be attached to it by the decision maker, the Courts did not rule that this affected its status as a material planning consideration. Any proposed development which seeks to rely on the fall-back position should be given greater weight if it is more beneficial and has less impact than the development which could take place under the fall-back position.

There is no compelling evidence provided within the application in respect of whether there is a realistic prospect of the existing permitted scheme being delivered if permission was to be refused. Nevertheless, and more importantly, even if the permission was implemented it would not result in the same degree of harm to the character and appearance of the area as the proposed scheme would as has been identified above, as the building that would be converted sits within an existing group of modern large scale agricultural buildings. As both sites are within Flood Zone 3, the current application site is not sequentially preferable in this respect.

It is therefore considered that for the reasons stated, very little weight can be attached to the fall-back position.

Conclusion and Recommendation

The proposal is unacceptable in principle and contrary to policies SS 1 and SS 2 and would not be sustainable development. Very little weight can be given to the applicant's suggested fall-back position for the reasons explained above. In addition, the proposed development would result in harm to the character and appearance of the area and is contrary to the aim of locating development to areas with the lowest risk of flooding. Therefore, refusal of the application is recommended.

RECOMMENDATION:

Refuse for reasons relating to the following:

- The proposed development would not be a suitable location for a dwelling, having regard to the spatial strategy for the area and the accessibility of services and facilities conflicting with Policies SS 1 and SS 2 of the Core Strategy.
- The failure to pass the flood risk Sequential Test contrary to Policy SS 10
- The effect on the character and appearance of the area contrary to Policy EN 2

Final wording of reasons to be delegated to the Assistant Director for Planning