

AGENDA ITEM NO: 8/2(b)

Parish:	Congham	
Proposal:	Outline Application: Construction of two dwellings and formation of new access onto St Andrews Lane	
Location:	Land between Shangri La and Bluebell Lodge St Andrews Lane Congham Norfolk	
Applicant:	Mr W Simper	
Case No:	16/02012/O (Outline Application)	
Case Officer:	Mr C Fry	Date for Determination: 12 January 2017 Extension of Time Expiry Date: 13 March 2017

Reasons for Referral to Planning Committee – The views of Congham Parish Council are contrary to the Officer recommendation

Case Summary

The site comprises of a rectangular parcel of land measuring 0.184 ha on the northern side of St Andrew's Lane Congham.

Congham is classified as a Smaller Village and Hamlet according to Policy CS02 of the Local Development Framework Core Strategy 2011.

The applicant has had the benefit of planning permission granted for a detached cottage (14/00988/F) on adjacent land, which has since been erected.

The application seeks outline consent for two detached dwellings with access only being determined at this stage.

Key Issues

Principle of Development and Planning History
Form and Character
Impact upon Neighbour Amenity
Highway Impact
Affordable Housing
Ecological Interests
Arboricultural Implications
Other Material Considerations

Recommendation

APPROVE

THE APPLICATION

The application site is within Congham, a Smaller Village and Hamlet, according to Policy CS02 of the Local Development Framework Core Strategy 2011.

The site comprises of a rectangular field, grade 4 in quality that contains two established trees and hedging along the western boundary of the site. The site has post and mesh fencing that is set back from the verge. The very rear of the site has temporary HERAs fencing.

The form and character of development comprises both chalet and 2 storey dwellings. The dwellings are constructed from brick and chalk (west) and chalet dwellings that are painted/rendered (east). The applicant has recently constructed a cottage style dwelling from red brick, chalk and pantile on land immediately to the east of the site.

The majority of the development is linear in form. Development to the east of the site is set back behind hedging; development to the west is generally hard on to the road development.

The proposal seeks outline consent, with access only being determined at this stage, for two detached properties set back in line with the cottage that has been built to the east. The proposal has a single point of access, between two significant trees, onto St Andrew's Lane to serve the two detached properties.

SUPPORTING CASE

The application is not required to be support by a Design and Access Statement, however the agent has put forward the following supporting case:-

The site of the proposal is an area of paddock land that fronts St Andrews Lane and which has previously been partitioned to allow the construction of the adjacent dwellinghouse and as such now represents a void in the linear nature of development within this area of the village.

The nature of the site, within a village classified as a Smaller Village or Hamlet within the LDF Core Strategy, means that Policy contained within the same document for the development of infill sites can be appropriately applied to the proposal.

The site itself is located within Flood Zone 1 so is at little or no risk of flooding and the area of land available means that it will be capable of accepting any drainage/soakaway measures required to ensure that there is no increased risk of flooding as a result of the modest development upon it.

The site is fronted by a pair of large trees between which a new access way is to be formed.

This access will be subject to future design and approval by Arboricultural specialists and will rely on well proven methods of "no-dig" construction meaning that the trees need not be affected by its presence.

The need for provision of affordable housing by the development has been raised during the application process on the basis that, judged by its site area alone, Policy suggests that when considered in conjunction with the recently developed land adjacent the whole, combined area of the site could have accepted five plus dwellings.

In practical terms, even when ignoring the adjacent property, it has been successfully demonstrated that it would not be feasible to develop the site to this extent in a manner that was commensurate with the form and character of the surrounding area in terms of density and typology.

These restrictions are further compounded by site specific constraints in the form of large root protection areas required to protect the trees and a previously enforced notional building-line which effectively renders the front of the site undevelopable.

Whilst access to Congham is via quite narrow roads, it is not atypical for a rural village of this scale and for this reason developments within villages is restricted and controlled by the implement of Planning policies that restrict development to small, infill plots such as this application proposes.

In recent months, as part of a larger development, the road has benefited from off-site upgrades in the form of three new passing bays which were designed to NCC Highways standards as an act of betterment in readiness for new increased traffic.

The location of the site almost centrally along the road means that there are in effect two-three routes that can be taken from the villages towards larger settlements meaning that any potential increase in traffic is at least diluted to only a very small number of movements.

It is our belief that the site and development proposed upon it are wholly suitable in terms of scale and suitability. The proposal is compliant with the specific policy applied to developments of its nature and does so in a scale and manner which is befitting the site and its immediate surrounding built environment.

PLANNING HISTORY

In respect to this application site:-

13/01202/LDE: Application Permitted: 14/10/13 - Application for Lawful Development Certificate: Use of land for the standing of a caravan in excess of 10 years for the purposes of making tea and lunch while tending to animals on land edged in red as shown on drawing numbered TF7123NW

In respect to the land to the east:-

16/00835/F: Application Permitted: 06/07/16 - Variation of Condition 2 of planning permission 15/00813/F to allow the use of design drawings other than those listed in condition to allow minor adjustment conservatory roof material

15/00813/F: Application Permitted: 17/07/15 - Variation of Condition 2 attached to planning permission 14/00988/F: Construction of a detached cottage style house

14/00988/F: Application Permitted: 02/09/14 - Construction of a detached cottage style house

14/00500/F: Application Withdrawn: 19/05/14 - Construction of a three bedroom cottage style house

RESPONSE TO CONSULTATION

Parish Council: OBJECT 08.12.16 It is felt that this outline planning application should have been considered as part of 16/02012/O and previous applications 14/00988/F and 16/00835/F and should be treated as a single application.

This applicant originally was granted approval by the Parish Council reluctantly, on condition that no further building was considered on this plot of land. The applicant agreed at the time and has now reneged on this commitment.

The approach to planning proposals has been an attempt to circumvent the requirement for affordable housing on the site, something that Congham needs.

Natural England: NO OBJECTION in respect to the statutory nature conservation sites. Impact upon Protected Species have not been assessed in this application, the Local Authority would need to apply standing advice.

Public rights of Way Officer: NO OBJECTION

NCC Highways Officer: NO OBJECTION subject to condition

Arboricultural Officer: NO OBJECTION requires a full tree survey, this will include an arboricultural implications assessment, arboricultural method statement and tree protection plan. Conditions to be imposed in regards to tree protection.

Environmental Health & Housing – Environmental Quality: NO OBJECTION

Housing Enabling Officer Comments that if it's under 1,000m² GIA across the two sites – then no contribution.

If the two sites combined are over 1,000m² GIA then I fall back on your professional decision regarding whether the site is capable of accommodating five no. dwellings. If that decision is no, then no Affordable Housing is provided. If however you feel that five no. dwellings could be provided across the two sites then one on site unit will be due with no option of a commuted sum.

Historic Environment Service: NO OBJECTION subject to conditions.

REPRESENTATIONS

TWO letters received **OBJECTING** to the proposal on the following grounds:-

- Congham has no bus service,
- Lanes are narrow for pedestrians,
- More houses will add to the traffic issues
- Single track lane cannot accommodate more traffic
- No affordable housing provided.

ONE letter received raising **NO OBJECTION** to the application.

NATIONAL GUIDANCE

National Planning Policy Framework – sets out the Government’s planning policies for England and how these are expected to be applied.

National Planning Practice Guidance - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS09 - Housing Distribution

CS11 - Transport

CS12 - Environmental Assets

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM2 – Development Boundaries

DM8 – Delivering Affordable Housing on Phased Development

DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

DM22 - Protection of Local Open Space

PLANNING CONSIDERATIONS

The main planning considerations in regards to this planning application are:-

- Principle of Development and Planning History
- Form and Character
- Impact upon Neighbour Amenity
- Highway Safety
- Affordable Housing
- Protected Species
- Other Material Considerations

Principle of Development and Planning History

The site lies within the village of Congham. Congham is classified as a Smaller Village and Hamlet in accordance with Policy CS02 of the Local Development Framework Core Strategy 2011.

Development in Smaller Villages and Hamlets will be limited to specific identified needs in accordance with Policy CS06 – Rural Areas – Local Development Framework Core Strategy 2011.

Policy CS06 states that in Smaller Villages and Hamlets, more modest levels of development, will be permitted to meet local needs and maintain the vitality of the communities, where this can be achieved in a sustainable manner, particularly in regard to accessibility to housing.

To provide further guidance in considering proposals for residential development in Smaller Villages and Hamlets, Policy DM2 of the Site Allocation and Development Management Policies Plan states that “New development in the designated Smaller Villages and Hamlets will be limited to that suitable for rural areas including; - the sensitive infilling of small gaps within an otherwise continuously built up frontage will be permitted in Smaller Village and Hamlets where:-

1. The development is appropriate to the scale and character of the group of buildings and its surroundings; and
2. It will not fill a gap which provides a positive contribution to the street scene.

Provided that the site is not considered to provide a positive contribution to the street scene the proposal could be supported subject to other material considerations.”

Other matters, whilst the application site has not been the subject of a planning application, the adjacent site has recently had consent granted for a detached dwelling (14/00988/F) which at the time of the site visit was almost complete. The planning history of that site and this proposal is pertinent in regards to whether this proposal should be contributing towards affordable housing provision. This is discussed later in the report.

Form and Character

The application site is rectangular shaped and can be described as scrub land. The site formed part of a certificate of lawful development for the tendering of horses. However upon site visit, the use of the site was left over to scrub.

There are no structures on the site; however there is a substantial hedgerow on the western boundary and two significant trees on the site's frontage. The trees are setback from the road by virtue of the highway verge in front of the site and the post and mesh fencing on this particular boundary.

The site appears relatively flat and at present is only temporarily enclosed on the northern boundary by virtue of Heras fencing and open is on the eastern boundary.

The form and character of development comprises of both chalet and two storey dwellings.

Development to the west of the site, with the exception of a dwelling set back screened from the St. Andrews Lane, comprises of 2 storey cottages hard onto the street.

To the east there are substantial detached chalet styles dwellings set back behind trees and hedging.

The recently constructed property to the east uses red brick and red pantiles and chalk in its construction.

The proposal seeks outline consent with only access being determined at this stage for two dwellings. The indicative layout and plans shows two dwellings set back in line with the adjacent cottage. The properties will have a shared driveway constructed between two substantial trees on the roadside frontage.

Even though layout, appearance, scale and landscaping are reserved for later consideration it is considered that the indicative layout shown, two detached dwellings, can be accommodated on the site without detrimentally affecting the form and character of the development in the locality.

Impact upon Neighbour Amenity

The neighbour to the west of the site is set behind substantial hedging from the indicative siting shown, this neighbour is unlikely to be detrimentally affected by dwellings on this site.

The property to the east is within the applicant's ownership. That dwelling has a conservatory projecting from its western elevation that would, from the indicative siting, be slightly forward of one of the dwellings. The relationships albeit shown indicatively and subject to internal layouts should not cause a detrimental impact upon this neighbour's amenity. However, if approval is granted these issues would be considered at the reserved matters stage.

There are no residential neighbours to the North (rear) and South (front) of the site.

Highways Impact

Third Party correspondence raises highway safety issues.

The application seeks outline planning permission with access being determined at this stage only. The highways officer has no objection to the proposal subject to conditions. One such condition, recommended by the Officer, in regards to the layout of the private driveway, is not to be conditioned. This is because as layout is a matter reserved for later consideration.

Affordable Housing

Albeit the proposal is for two dwellings, this site is over 0.165ha in size and would therefore be the subject of affordable housing contribution at 20% if five or more units could be accommodated on the site and where the gross internal floor space of the five dwellings is likely to be over 1000m². The form and character of development in the locality comprises of detached dwellings set back in the street scene, on a linear frontage and it is considered that the site is not capable of accommodating five dwellings. Accordingly no affordable housing contribution is sought.

The Parish Council has raised issue that the applicant has artificially subdivided their land holdings in order to avoid affordable housing contributions.

The applicant has recently gained permission on an adjacent site for a detached property, (14/00988/F), which was almost complete at the time of the site visit.

The size of that site alone would have triggered the requirement of affordable housing contributions, but no contributions were sought for form and character reasons. Nevertheless, when combining the 14/00988/F site with the application site, it is considered that five units with a combined gross internal area of over 1000m² cannot be accommodated across the two sites, as a proposal of that nature would still advocate a cramped form of development contrary to the characteristics of development in the locality and contrary to Policy DM15 – “Environment, Design and Amenity of the Site Allocation and Development Management Policies Plan”. Therefore in line with Policy DM8, of the Site Allocation and Development Management Plan “Delivering Affordable Housing on Phased Development” affordable housing is not sought on this application site as it would fail to comply with the other policies of the Local Plan.

Fundamentally, the 14/00988/F dwelling is almost complete, and thus the issue of affordable housing provision should only be considered on the basis of the size of this application site alone and its capability of providing five units or more with a gross floor area in excess of 1000m².

The Housing Enabling officer has looked at the history of the two sites and does not require affordable housing contributions based on the findings above.

Ecological Interests

The site contains established hedging, trees with crevices and from aerial photography there appears to be a number of ponds within a 500m distance of the site. Furthermore the site is approximately 1.5km away from Roydon Common Special Area of Conservation (SAC).

Accordingly, in line with Natural England’s Standing Advice a Phase 1 protected species report has been submitted.

The result of the report concludes that there will be a neutral impact upon the Roydon Common.

In terms of protected species the following has been concluded:-

- Badgers – no evidence of badger was found on the site, although given its small size the site is not thought to be an important foraging area, some standard avoidance and mitigation measures would be necessary during the construction phase as a precaution.
- Bats – the horse chestnut tree has a small rot-hole in the south east side on the lower part of the trunk, but there were no signs of any bat roosting. No other suitable features such as crevices, niches, loose bark or woodpecker holes were noted within these horse chestnut trees or the beech or elm to the west.
- Great Crested Newts – the site does provide a moderately suitable habitat for GCN, with the pile of spoil offering potential for use by hibernating newts. Overall the risk to GCN if present in nearby ponds is deemed to be low due to separation factors, therefore no licence would be required.
- Nesting Birds- the trees on the site and the shrubs bordering it could provide a suitable habitat for nesting birds and will support some nesting by common garden birds. None of the trees or shrubs is expected to be removed a neutral impact to nesting birds is certain.
- Reptiles – the site lacks the structural variation in ground vegetation to support reptiles.

The report refers to avoidance and mitigation measures that can be implemented such as the felling, clearing or pruning of any trees or shrubs on or bordering the site would need to occur outside of the main bird nesting season which runs from 1st March to 31st August.

A condition will be attached that refers to avoidance and mitigation measures outlined in section 7 of the report.

Arboricultural Implications

The proposed access to serve the two dwellings will be in between two horse chestnut trees.

The Arboricultural Officer has no principle objection to the application, subject to conditions that require an arboricultural report to be submitted and the retention of trees on the site.

The Arboricultural Officer, at the time of writing the report, is investigating whether the two horse chestnut trees are worthy of being protected by a Tree Preservation Order. The Arboricultural Officer's comments will be referenced in late correspondence.

Other Material Consideration

The Environmental Health and Housing – Environmental Quality Officer has no objection to the proposal.

Historic Environment Service state that archaeological artefacts have been found within the vicinity of the site and so recommend archaeological conditions are imposed on the decision notice. This is considered to be a reasonable request.

CONCLUSION

The application seeks consent for outline consent for erection of two dwellings on the site with only access to be determined at this stage.

It is your officer's opinion that the principle of developing the site can be accepted as a form of infill development in a linear frontage. The site has no redeeming features, with the exception of the two horse chestnut trees, which at the time of writing this report are not protected by way of a Tree Preservation Order.

The objection raised by the Parish Council in respect to the proposal not providing affordable housing provision is noted; however the site when combining this application site with the site to the east, the two sites as a whole would not be capable of providing five or more dwellings with a gross floor area in excess of 1000m² for form and character reasons. Accordingly in line with policy DM8 – Affordable housing on phased development, a proposal of that nature (five or more dwellings with a combined 1000m² floorspace) would not have conformed with the other policies contained in the Site Allocation and Development Management Policies Plan – namely Policy DM 15 in terms of impact upon form and character, given the linear character of development in the locality.

There are no outstanding matters that need to be addressed in this proposal which is therefore recommended to be approved subject to the following conditions.

RECOMMENDATION:

APPROVE subject to the imposition of the following condition(s):

- 1 Condition Approval of the details of the means of layout, scale, appearance and landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority before any development is commenced.
- 1 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted to the Local Planning Authority in writing and shall be carried out as approved.
- 2 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 3 Condition Application for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 3 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 4 Condition The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the latest such matter to be approved.
- 4 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 5 Condition The development hereby permitted shall be carried out in accordance with the following approved plans (in regards to access only):-
 - Location Plan drawing no. 2/963/1B dated 3rd November 2016 received 16th November 2016.
- 5 Reason For the avoidance of doubt and in the interests of proper planning.
- 6 Condition Prior to the first occupation of the development hereby permitted the vehicular access shall be provided measuring a minimum of 4.2m in width and thereafter retained at the position shown on the approved plan 2/963/1B date 3rd November 2016. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
- 6 Reason To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway.
- 7 Condition Notwithstanding the provision of Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking, amending or re-enacting that Order) no gates, bollard, chain or other means of obstruction shall be erected across the approved access unless details have first been submitted to and approved in writing by the Local Planning Authority.
- 7 Reason In the interests of highway safety.

- 8 Condition Prior to the first occupation of the development a visibility splay shall be provided in full accordance with the details indicated on the approved plan. The splay shall 0.6 metres above the level of the adjacent highway carriageway. The splay shall be retained thereafter as such.
- 8 Reason In the interests of highway safety.
- 9 Condition Notwithstanding the details received on Site Plan drawing no. 2/963/1B, no building or other operation shall commence on site in connection with the development hereby approved (including any tree felling, tree pruning, engineering work, soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles) until a tree survey showing the following has been submitted to and approved in writing by the Local Planning Authority:
- a) a plan indicating the location of and allocating a reference number to each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75mm, showing clearly which trees are to be retained and which trees are to be removed, and the crown spread of each tree;
 - b) details of the species, diameter, approximate height and condition of each tree in accordance with the current version of BS:5837, and of each tree which is on land adjacent to the site where the crown spread of that tree falls over the application site and where any tree is located within 15m in distance from the application site.
- 9 Reason To ensure that the existing trees are properly surveyed and full consideration is made of the need to retain trees in the development of the site in accordance with the NPPF. This needs to be a pre-commencement condition given the potential for trees to be lost during development.
- 10 Condition No development or other operations shall commence on site until the existing trees and/or hedgerows to be retained (on site plan 2/963/1B) have been protected in accordance with a scheme that has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the erection of fencing for the protection of any retained tree or hedge before any equipment, machinery, or materials are brought on to the site for the purposes of development or other operations. The fencing shall be retained intact for the full duration of the development until all equipment, materials and surplus materials have been removed from the site. If the fencing is damaged all operations shall cease until it is repaired in accordance with the approved details. Nothing shall be stored or placed in any fenced area in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made without the written approval of the Local Planning Authority.
- 10 Reason To ensure that existing trees and hedgerows are properly protected in accordance with the NPPF. This needs to be a pre-commencement condition given the potential for damage to protected trees during the construction phase.
- 11 Condition The development shall be carried out in accordance with section 7 "avoidance and mitigation" of Wildlife Frontier ecology report received February 2017 unless otherwise agreed in writing by the Local Planning Authority.
- 11 Reason In the interests of safeguarding protected species in accordance with the provisions of the NPPF.

- 12 Condition No development shall take place/commence until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and
1. The programme and methodology of site investigation and recording
 2. The programme for post investigation assessment
 3. Provision to be made for analysis of the site investigation and recording
 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 5. Provision to be made for archive deposition of the analysis and records of the site investigation
 6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation
- 12 Reason To safeguard archaeological interests in accordance with the principles of the NPPF. This needs to be a pre-commencement condition given the potential impact upon archaeological assets during groundworks/construction.
- 13 Condition No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 12.
- 13 Reason To safeguard archaeological interests in accordance with the principles of the NPPF.
- 14 Condition The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 12 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.
- 14 Reason To safeguard archaeological interests in accordance with the principles of the NPPF.