



**Planning Committee**  
**Monday, 2nd November, 2020 at 9.30 am**  
**in the Remote Meeting on Zoom and available for the**  
**public to view on WestNorfolkBC on You Tube - Zoom**  
**and You Tube**

**Reports marked to follow on the Agenda and/or Supplementary Documents**

1. **Receipt of Late Correspondence on Applications (Pages 2 - 8)**

To receive the Schedule of Late Correspondence received since the publication of the agenda.

**Contact**

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**PLANNING COMMITTEE  
2 November 2020**

**SUMMARY OF ADDITIONAL CORRESPONDENCE RECEIVED SINCE THE  
PUBLICATION OF THE AGENDA AND ERRATA**

**Item No. 8/1(a) Page No. 9**

**Cllr Alun Ryves:** Asked the following question:

I cannot find the officers report of October 2018. Can you help please?

**Assistant Director's Comments:** The committee reports for planning application ref: 18/01142/FM can be found scanned in on the electronic file under the dates 6 March 2019 on Public Access.

The committee report for application ref: 17/00025/FM can be found as a late item in the agenda pages for the 5 February 2018 Planning Committee found under the Council and Democracy section of the Council's website.

**Item No. 8/2(a) Page No. 27**

**Agent:** I have been through the Committee Report and would comment as follows:

Pg 34 paragraph 7 – To suggest that at the time of the consideration of the application in 2011 by Supreme Surfacing the Council did not impose any restrictions on the business operation for their commercial operation was due to the fact that the existing dwelling was owned by the applicant, is a very strange comment to make as there were no restrictions on how the dwelling was occupied and therefore at that time the dwelling could be occupied by anyone without any association with the business and that is still the case today. Had the Council had any concerns about the impact of the proposed business on the residential amenities of the occupiers of the dwelling, that was the appropriate time to consider such restrictions and the Council chose not to do so. To then suggest that this point was recognised by the Inspector at paragraph 7 of the appeal decision is also incorrect and very misleading. The Inspectors comment about the "bungalow and business being relatively separate and not harming the living conditions of their occupants" is in fact a comment relating to the fact that the bungalow and business are separate whereas the scheme at that time being considered by the Inspector was proposing to use the existing dwelling as an office to the business thus introducing potential noise and disturbance to the occupiers of the new dwelling. This is the main reason why applications for a replacement dwelling since that appeal decision have had no direct association with the business operation and in fact the Council has subsequently granted planning permission for a new office within the yard to the business.

Pg 35 final paragraph – The UU is not being imposed by the Council it is being offered by the applicant as way forward to enable the removal of Condition 6 so that raise the finance to build his replacement dwelling and enhance the amenity and living conditions of his family. I fail to see how this could be viewed as being in conflict with Government advice and in fact is a planning judgement on the merits of the case.

Pg 36 paragraph 9 – The business is a family concern and the applicant is not looking to expand his business and therefore will not be looking to modify the terms of the UU in the future.

Pg 36 paragraph 10 – The business has been operating within the terms proposed by the UU for the last 10 years so why is its continued operation likely to lead to complaints from local residents

that would stretch the resources of the Council. It operates without any complaints and has done for the last 10 years so why does the Council feel that this is likely to change in the future?

Pg 36 final paragraph – In an email dated 10 September from Fiona Croxen, the Council's Legal Advisor (also copied in to you) she confirmed that the UU can be enforced against the signatories.

**CORRECTION:** P34, paragraph 8, line 2 – reference number should read 19/00989/F.

**Assistant Director's comments:** With regards to the final point above this was an oversight. Whilst taken as a standalone legal document the UU may technically be enforceable, our legal advisor did caveat that it was for officers to be happy with the content, so her comments were merely limited to checking title and to a review of the wording of the draft UU which was circulating.

Planning Permission 19/00989/F is now the subject of an appeal against the imposition of the occupancy condition. Statements have been submitted and the issues raised in that appeal are the same as considered under the current application.

**Item No. 8/2(c) Page No. 50**

**Parish Council:** Is not able to attend the meeting and submitted the following statement. Maintains its **OBJECTION** and makes the following comments:

Planning application 20/01231/O Land N of 36 School Road, Marshland St James

The Parish Council generally has a very positive attitude towards new development in the parish but it needs to be in the right place and growth should be at a gradual level to be sustainable development. This development is outside the development boundary for the village and is therefore classed as open countryside.

The Parish Council has recently made a decision to commence a Neighbourhood Plan for the whole of the parish as this will allow residents to have a greater say in how they would like to see the future development of their village.

School Road already has an approved site for 17 dwellings, currently under construction, and one more site for 4 dwellings which was approved in February. Also, there are 2 more sites, consisting of another 10 dwellings, which were considered to be the preferred option by the Borough Council when reviewing its Local Plan. These additional new sites would be on the same side of the road as the site currently under construction. This application is on the other side of the road.

The Parish Council raised concerns about this preferred option of a further 10 dwellings along School Road, due to the width of the road and the need for further new development to not be restricted to just School Road. The Parish Council suggested that only one site should be approved on School Road and a second site on Smeeth Road should be considered, in preference to 2 sites on School Road. The pub on School Road no longer exists as it is now a private dwelling and therefore this should not be taken into account when considering the access to amenities.

As part of the most recent call for sites, during the current review of the Local Plan, 11 sites were put forward by landowners within the parish. The Borough Council considered that 5 of the other sites were reasonable alternatives to the 2 preferred sites. All of these sites would allow for an additional 152 dwellings.

The site for this application, which is on the opposite side of the road to the site under construction and preferred options for 2 more sites, is outside the development boundary for the parish, and

therefore in open countryside. Over the last few years over 90 new dwellings have already been approved in the village against an allocation of 25.

The Parish Council does not believe that this site, which is outside the development boundary, should be approved for development. However, if the Planning Committee grant approval, against the objections of the Parish Council and the recommendations of the Planning Officer, it is essential that a condition is placed on any approval that a footpath must be installed to link the site to the current footpath on School Road; the road must be widened; and the 40mph speed limit on School Road must be extended to beyond this site, with the developer covering the cost of these items.

**Local Highway Authority (LHA):** Provides clarification on LHA comment as follows:

Holding objection withdrawn on both applications (20/01231/O & 20/01256/O) subject to legal agreements being in place to secure road widening, footway provision and visibility across third party land. I am mindful that there are a high number of developers that start works on the buildings and even sell them without the appropriate legal agreements for associated highway works being in place, they need the land for those. Also an applicant needs to demonstrate that they can provide and maintain visibility splays that fall over third party land. Being a 3rd party it is our authority's view that this is best secured by an appropriate legal agreement that goes with the land and not the owner as they do obviously change over time.

That said, ultimately, the legal aspect is a matter for your authority and the ability therefore to enforce against any non-compliance of a condition, should that happen.

**Cllr Joyce:** The supporting case claims the applicant has a legal agreement with his neighbour who has a separate application. What is the reference number of the neighbour's application?

What does the legal agreement consist of? Is it an easement? If so is it registered on the servient landowner's deeds?

I accept easements are a civil matter but much of this application appears to rest with Highways holding objection along with site being in the countryside. And avoiding a Section 65 should be the first consideration.

The Council's Affordable Housing Policy identifies 0.165 hectares or 5 dwellings as the trigger point for 20%. Therefore, what is the proposed contribution?

**Cllr Ryves:** Seeks confirmation of reason for call-in by Cllr Long.

As I recall it was argued in a previous application 19/01997/0 that there is great demand in MSJ for new housing (I note these will be executive style); is there any evidence to support this assertion - i.e. recent completions, likely flow of new dwellings from extant permissions, activity in rental and ownership market or number of existing planning permissions where works has commenced and where work has not commenced?

Also seeks confirmation of LHA stance on revised plans.

**Assistant Directors comments:**

With regard to the principle of development on p. 57, the Agent points to case law and states that the land is classed as 'brownfield land' because it has been used for grazing and keeping horses. Case Law differs but generally if horses are kept on the land for substantial periods of time with supplementary feeding etc. then this is likely to be classed as being used for the 'keeping of horses' and represents a material change of use. Whereas if the horses are let on the land occasionally solely for the purposes of grazing on the land then this is classed as agriculture. In

this instance the site contains a stable building alongside the NW boundary of the site. The case law referred to by the Agent relates more to larger established planning units containing large stables and maneges covering a much more substantial 'developed' area adjoining established settlements. Not all of the associated land/paddocks are automatically considered to be 'brownfield' or previously developed land. It is a matter of fact and degree.

The Agent argues that it is not agricultural land but a brownfield site, and that this should be given substantial weight in the determination of the application. Reference is made to national policy which in paragraph 118c gives 'substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs', in preference to the development of greenfield land. The Council does not agree however that this is 'suitable' land for development for the reasons detailed in this report. The NPPF in paragraph 117 goes on to state that 'planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment'. The site reads as part of the wider countryside. Notwithstanding this, this does not outweigh the principle considerations contained in this report.

With regard to Cllr Joyce's comments, the Agent is referring to the adjoining site to the SW of this application site which is the next report in this agenda (ref: 20/01256/O). However, the connection to the existing footpath network is to the NW using the frontage of the adjoining land granted outline permission under ref: 19/01907/O. Officers do not have any details of this 'agreement'.

Policy CS09 was modified with the advent of the recent update of the NPPF; the assessment for affordable units/contribution now relates to the proposed number of dwellings and site area exceeding 0.5Ha. The developable area for the plots falls just under the threshold.

With regard to Cllr Ryves comments, Cllr Long's comments on p 55 relate to the land level of the application site compared to that of the suggested allocation (to the south of School Road).

The number of dwellings approved in Marshland St James is set out on p57 of the Agenda.

The LHA effectively has no objection to the revised plan as contained in the consultation section of the report and clarified above.

#### **Item No. 8/2(d) Page No. 60**

**Applicant:** Considers that the report is negatively biased and that other thoroughly researched relevant and positive facts that he has provided have not been included. States the following:

#### Objections

There are just two 'Objections' – One from the Parish Council and one from a third party – where you have included their full un-edited text.

N.B. Five other Statutory Authorities have confirmed NO OBJECTIONS

#### Support

There are two letters of 'Support' – where you have not included any of their text.

These must be included (un-edited) – for transparency, fairness and completeness.

It is also noted that you have not included in this section, the statement of continuing support by Councillor Brian Long (Leader of the Council) and hence his reasons for again 'Calling in' the application for consideration by the Planning Committee.

Makes comments regarding the conduct of the Parish Council in its consideration of the application and considers that the Design and Access Statement should be made available to Planning Committee as part of Late Representations.

**Parish Council:** Is not able to attend the meeting and submitted the following statement. Maintains its **OBJECTION** and makes the following comments:

Planning application 20/01256/O Land NW of 47 School Road, Marshland St James

The Parish Council generally has a very positive attitude towards new development in the parish but it needs to be in the right place and growth should be at a gradual level to be sustainable development. This development is outside the development boundary for the village and is therefore classed as open countryside.

The Parish Council has recently made a decision to commence a Neighbourhood Plan for the whole of the parish as this will allow residents to have a greater say in how they would like to see the future development of their village.

School Road already has an approved site for 17 dwellings, currently under construction, and one more site for 4 dwellings which was approved in February. Also, there are 2 more sites, consisting of another 10 dwellings, which were considered to be the preferred option by the Borough Council when reviewing its Local Plan. These additional new sites would be on the same side of the road as the site currently under construction. This application is on the other side of the road.

The Parish Council raised concerns about this preferred option of a further 10 dwellings along School Road, due to the width of the road and the need for further new development to not be restricted to just School Road. The Parish Council suggested that only one site should be approved on School Road and a second site on Smeeth Road should be considered, in preference to 2 sites on School Road. The pub on School Road no longer exists as it is now a private dwelling and therefore this should not be taken into account when considering the access to amenities.

As part of the most recent call for sites, during the current review of the Local Plan, 11 sites were put forward by landowners within the parish. The Borough Council considered that 5 of the other sites were reasonable alternatives to the 2 preferred sites. All of these sites would allow for an additional 152 dwellings.

The site for this application, which is on the opposite side of the road to the site under construction and preferred options for 2 more sites, is outside the development boundary for the parish, and therefore in open countryside. Over the last few years over 90 new dwellings have already been approved in the village against an allocation of 25.

The Parish Council does not believe that this site, which is outside the development boundary, should be approved for development. However, if the Planning Committee grant approval, against the objections of the Parish Council and the recommendations of the Planning Officer, it is essential that a condition is placed on any approval that a footpath must be installed to link the site to the current footpath on School Road; the road must be widened; and the 40mph speed limit on School Road must be extended to beyond this site, with the developer covering the cost of these items.

**Cllr Long:** As ward member, I consider that the site is favourable to the allocated site and has a better risk of not flooding as sites higher than adjacent site.

**Cllr Ryves:** Seeks clarification on the Local Highway Authority's stance on the amended plans.

**Local Highway Authority (LHA):** Provides clarification on LHA comment as follows:

Holding objection withdrawn on both applications (20/01231/O & 20/01256/O) subject to legal agreements being in place to secure road widening, footway provision and visibility across third party land. I am mindful that there are a high number of developers that start works on the buildings and even sell them without the appropriate legal agreements for associated highway works being in place, they need the land for those. Also an applicant needs to demonstrate that they can provide and maintain visibility splays that fall over third party land. Being a 3rd party it is our authority's view that this is best secured by an appropriate legal agreement that goes with the land and not the owner as they do obviously change over time.

That said, ultimately, the legal aspect is a matter for your authority and the ability therefore to enforce against any non-compliance of a condition, should that happen.

**Assistant Director's comments:** For clarification, the Third Party comments referred to in the Applicant's statement and on p. 66 of the Agenda pages are clarified below:

TWO letters of SUPPORT (summarised) received stating:

- established development along School Road and this would be a balanced expansion of the village.
- low density
- within walking distance of school and village hall
- development will include enhanced landscaping within the site, which will improve the ecology and biodiversity
- CIL revenue and Council Revenue
- Currently land not utilised
- Does not agree with objections to the road, the addition of a footpath and extending the 30mph speed limit to the village boundary will benefit the school and provide an area where cars can park safely rather than on the side verge.

The Design & Access Statement is a public document and available to Members via Public Access. It must be noted that the Agent has also submitted a supporting statement as set out on p63 and 64 of the Agenda pages. Comments regarding the conduct of the Parish Council are not a matter for Planning Committee.

**Item No. 8/2(f) Page No. 86**

**Historic Environment Services (HES):** Clarifies that there are no known archaeological implications.

**Eastlaw Solicitor:** Made comments regarding the submitted legal agreement of access over third party land - This is a signed but undated conditional agreement to enter into a Deed of Easement between individual landowners, not a section 106 agreement. It refers to a plan but none is attached.

Private arrangements between individuals are not material planning considerations so this agreement is not relevant to the planning considerations although, it provides some evidence that the new development will not be landlocked. Whether or not a Deed of easement is, in fact, granted is a matter between the respective landowners, not the planning authority.

**Third Party Comment:** Raised issues regarding:

- Lack of affordable housing; the Planning Department should be actively encouraging affordable housing;

- Number of second homes in the area further excludes local people from being able to purchase houses in the locality

**Assistant Director's Comments:** HES comments are noted.

The Solicitor's comments regarding the submitted legal agreement of access over third party land are noted. This is not a material consideration in this case.

The issue of second homes is covered in the officer report.

In relation to the provision of affordable housing; there is no policy requirement to provide affordable housing on a scheme of this size.

**Item No. 8/2(g) Page No. 102**

**Agent:** Confirms an Extension of Time until 6<sup>th</sup> November 2020 in order that the application may be determined by Planning Committee. Also submitted an amended plan removing the gates to the south of the site (adjacent to the drain) and changed the gravel driveway to compacted crushed tarmac.

**Parish Council:** Maintains **OBJECTION**. It was decided to continue with the objection as the fenced off access could easily be reopened and the council were concerned the gravel was not ideal for farm traffic with the additional mud on the road. There is also a change of use at Old Farm from agricultural buildings to a dwelling which needs more information and has been refused in the past. Overall, it is considered that additional access to be unnecessary and dangerous.

**Assistant Director's comments:** Notwithstanding the Parish Council's comments, the application is for the construction of the agricultural access only. Any other matters raised will be dealt with separately.