



Planning Committee
Monday, 6th December, 2021 at 9.30 am
in the Assembly Room, Town Hall, Saturday Market
Place, King's Lynn PE30 5DQ

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

1. **Receipt of Late Correspondence on Applications (Pages 2 - 12)**

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

Contact

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PLANNING COMMITTEE
6th December 2021

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

Item no. 8/1(b) Page No.26

Parish Council: Make the following additional comments:

1 Introduction

In recommending approval of this application Officers are completely at odds with the views of the Parish Council, the Norfolk Coast Partnership, a broad cross-section of the local community and an experienced planning consultant (JCJ Planning). All of these objectors contend that the proposal is not compliant with current planning policy and even the Officers' own conclusions seem to acknowledge this although they are difficult to follow due to incorrect references to planning policy numbers.

Beyond claiming that the proposed dwelling is of '*high quality, bespoke design*' the Officers' report makes no reasoned justification for ignoring the raft of planning policy, planning policy guidance and the General Permitted Development Order regulations that objectors quite rightly demonstrate this application contradicts. Crucially, the report chooses to ignore the RICS national standards for measuring the size of buildings in favour of accepting claims from the Applicant that their measurements are "correct" despite being based on no identifiable, published standard.

Members are respectfully asked to consider three key questions when making their decision on this application:

1. Is the proposed property really only 40% larger in GIA than the original bungalow (HNTS16, HNTS17) and as a result is it policy compliant and does it justify the Applicants' claim to "*fully support and respect the Neighbourhood Plan*"?

2. Will the proposed dwelling result in a home that more effectively meets the present and future needs of the local community (which consists of typically small households, downsizers and retirees - see NDP evidence base) than the existing bungalow - and therefore does it satisfy the requirements of NDP Policy HNTS 16 from the point of view of redressing the growing imbalance in Holme's housing stock and protecting the stock of small homes relevant to the local community?

3. Will the design complement and blend well with the other houses along Peddars Way or will it impact negatively on the street scene and character of the AONB neighbourhood (SADMP15, HNTS11) – importantly, is the proposed building consistent with the local community's strongly expressed vision and objectives for the future of the Parish and preferences for buildings styles as set out in the Neighbourhood Plan?

The PC contends that the answer to all of these questions is clearly "NO" for the reasons set out below.

2 Size of the proposed dwelling

The size of the proposed dwelling underpins many of the other issues. The NDP's 40% limit on size is designed to ensure that extensions and replacement dwellings protect the dwindling stock of small homes needed by the local community (NDP Policies HNTS 16 and HNTS17).

The claim that the proposed dwelling is only 40% larger than the existing 2 bedroom bungalow is clearly untenable. It rests on the unsubstantiated claim that "*The Parish Council's calculations*

incorrectly include the external terraces, access deck to the external stairs, external covered entrances, outbuildings as well as external covered walkways – these are not internal and therefore should not play any part in calculating the Gross Internal Area”.

The Parish Council's area calculations are based on the universally accepted RICS standard for measuring buildings. This states that the elements of a residential property referred to in the previous paragraph are in fact all included in the GIA calculation. The Parish Council's measurement of floor area is therefore correct.

Attached to this representation is the table taken from the RICS standard (relevant entries highlighted in green) which sets out which elements of buildings which should be included in GIA calculations. This table was provided to Officers prior to the September Planning Committee to ensure that Members were aware of the evidence base for the PC's calculations. Its content and ramifications for dealing with this application are not described in the Officers' Report. In contrast, the applicant's calculations have been accepted and do not appear to have been checked or justified against any accepted standard.

The PC's previous submissions have highlighted huge inconsistencies in the Applicant's calculations of GIA (notably between the current and earlier, withdrawn application) but this has not been considered in the Officers' Report and no satisfactory explanation has been provided.

At the end of the day, it is plain for all to see that the proposed replacement dwelling is a massive two storey property with numerous reception areas, 4 bedrooms, garage and utility room plus a detached garden room. Clearly it does not satisfy the requirements of Policy HNTS16 and should be refused accordingly.

3 Needs of the community

A central objective of the Neighbourhood Plan is to ensure a sustainable future for Holme's resident community. HNTS 16 plays a key role in this by helping to maintain a balanced housing stock in order to meet their needs. Small and single story dwellings are particularly important to the quality of life of older residents by allowing them to enjoy a level of independence that would not otherwise be possible. Bungalows in particular have been a target for speculative development of very large houses that history has shown become second homes and/or holiday lets. The Neighbourhood Plan shows that less than 40% of the housing stock is occupied by residents. This is a dangerously low and growing proportion for a small community – it is not sustainable.

NDP policy includes a 40% limit on size increases to balance household need for new space against the need to protect the existing housing stock from further imbalance in relation to the small average family size in the Parish (less than 2). This application proposes to demolish yet another bungalow and replace it with a very large house that does not meet the needs of the local community as established by the Neighbourhood Plan evidence base. Cumulatively, this is reinforcing a strong trend that is contributing to the social exclusion now prevalent in West Norfolk's AONB villages and explains why policies of this type are being included in many neighbourhood plans.

This has been raised by the PC as a fundamental consideration but it is not listed as a 'Key Issue' in the Officers' Report. Neither is it considered in making a recommendation of approval to the Members. The Officers' decision to focus mainly on the narrow technical issue of size and ignore the fundamental planning issue of social sustainability requires explanation.

Approval of this application will continue to promote a form of development that is proven to be damaging the viability of the resident community in Holme. It is not sustainable development and runs counter to national, local and neighbourhood plan policy (NPPF para 8, Core Strategy CS08, NDP HNTS 1).

4 Street Scene and Character

In their objection dated 5 October 2021 the Norfolk Coast Partnership state that “...*the reduction in scale has still not addressed our main concerns. The scale, design and therefore impact on the street scene and excessive glazing will not serve to conserve and enhance the AONB in line with Para 176 (NPPF) and CS12 of the Local Plan*”. This policy-based objection from those who manage the AONB has not been picked up in the Officers’ Report and has not been addressed. The report’s conclusion acknowledges that there will be “*an impact on the character of the AONB in its wider setting as it will be visible in the street scene.*” but goes on to dismiss the comment without any reasoned justification but expresses the Officers’ opinion “...*that the proposal is of high quality, bespoke design that takes reference from a recent contemporary development on the adjacent site*”.

Clearly, the Officers’ opinion is at odds with that of the NCP and the strongly held views of the community represented by the Parish Council. However, the July 2021 NPPF (Section 12) no longer leaves planning decisions open to determination on the basis of Officer opinion regarding the architectural merit of designs. Rather, it places great emphasis on the use of Design Guides to achieve well designed places. It specifically (NPPF 127) highlights the importance of Neighbourhood Plans in identifying “*the special qualities of an area and explaining how these should be reflected in development*”. This builds on the Localism Act which through Neighbourhood Plans gives local communities the right to say where they think development should go and what it should look like.

Holme’s Neighbourhood Plan has exploited this opportunity by including a Building Styles Guide which together with a detailed Policy (HNTS 11 Street Scene, Character and Residential Environment) reflects local aspirations and the strong community design preferences identified through detailed local consultation. The use of such style guides is now given great emphasis in the revised NPPF (July 2021) which requires that where such a guide exists, it should be used to inform planning decisions (NPPF 129).

The Style Guide is a material consideration in reaching a decision on this application – but is not mentioned in the Officer’s Report. Whilst the Parish Council acknowledges Officer opinion (and respects the preferences of the Applicant) the decision should be made on the basis of the Style Guide. This reflects AONB vernacular style in line with the AONB Management Plan. It makes no reference to box-like structures with flat roofs and glass walls as proposed in this application. It does however reflect the views of the local community and lends strong support to their objections and those of the Norfolk Coast Partnership.

Notwithstanding the views of the Architect and the token use of some flint this building fails to meet the design criteria set out in both the NDP policy and the associated style guide and is contrary to policy.

5 Other Considerations

In addition to the main issues discussed above the PC has raised other policy-based objections – in particular breach of the development boundary (HNTS 2), light pollution (NPPF 185c, DM15, HNTS 20) and considerations of biodiversity net gain (HNTS 22). Whilst the PC acknowledges that these are mentioned in the Officers’ report they have been dismissed as inconsequential with neither solid evidence nor justification.

6 Conclusion

It is clear from the above that the application fails particularly in relation to policies which aim to protect the vitality and sustainability of the local community and in terms of the harmful impact which the design would have on the street scene, the character of the neighbourhood and the wider AONB. Underpinning all of these policy issues is the question of size which has become the focus of an unnecessarily detailed argument which has diverted attention from the main aims of the Policy HNTS 16 which are to redress a growing imbalance in Holme’s housing stock and especially to protect the stock of small homes relevant to the local community. It is clear from

simple inspection and comparison with the earlier withdrawn application that the proposed development is at least twice the size of the existing.

The PC's views on this application are consistent with those of the Norfolk Coast Partnership who have repeatedly voiced detailed objections which have not been addressed and the evidence presented in the PC's consultation responses clearly indicates that this application is not compliant with current planning policy at all levels – NPPF, Local Plan and Neighbourhood Plan. Members are respectfully requested to refuse it.

Third Party: ONE letter of OBJECTION received regarding the following:

- The proposal fails to accord with the requirements of the Neighbourhood Development Plan, specifically regarding the scale, design, impact on neighbours, local form and character and loss of a small 'affordable' housing stock, light spillage and the erosion of the special qualities of the AONB as a result of modern design.
- Queries surrounding the calculation of the GIA and with comments requesting Members to consider the size, scale and visual impact of the existing dwelling with the proposed more than double the size of the existing.
- Proposal fails to accord with NDP Policy HNTS 16, the Development Plan and the NPPF.
- Impacts of the housing stock within the area.
- Design, form and materials out of keeping with the surrounding area.
- Unacceptable impact on the AONB, specifically the use of vertical timber cladding, first floor glazing and balconies causing light spillage and detract from the open and rural character of the AONB.

Norfolk Coast Partnership: The reduction in scale has not addressed our main concerns. The scale and design and therefore impact on the street scene, and excessive glazing will not serve to conserve and enhance the AONB in line with para 176 and CS12 of the Local Plan.

Assistant Director's Comments:

The Norfolk Coast Partnership comments have been included in the committee report but under the Representations section of the report. For clarity, they are repeated above. The appearance of the building has not changed significantly, only the floor space but the substantive issues are covered by the officer within the committee report.

Whilst the Parish Council state that the GIFA should be calculated using the RICS Property Measurement Document, this guide is not referenced within the Policy HNTS16, the glossary or any other supporting documents. The officer has made a judgement on the basis of the content of the Neighbourhood Plan that the proposed dwelling, with amended GIFA, is policy compliant.

The desire to protect smaller housing stock of the community in the interests of social sustainability is acknowledged. The demolition of such smaller housing stock is acceptable subject to the 40% floorspace increase not being exceeded. In this case, it has not been exceeded.

It is acknowledged within the NPPF that Neighbourhood Plans provide can play an important role in identifying the special qualities of an area and how this should be reflected in development. In this case the Style Guide produced as part of the Neighbourhood Plan reflects aspects of the locality. However, it does not specify that contemporary development is unacceptable, it focuses on spacing, massing, material, design detailing etc. Whilst not specifically referencing the Style

Guide, the proposal is of contemporary design, located adjacent to a development of a similar style in a locality that is not universally defined by a distinct style of architecture. Again, the assessment relies on judgement and the officer gives detailed reasoning within the report why the development is acceptable within the locality.

Members will need to take a view on the proposal given the evidence contained within the report and outlined above.

Item No.8/2(b) Page.68

Agent: Submission of additional plans showing the Transformer and Enclosure Details.

Assistant Director's Comments:

The submission of these plans, that are considered acceptable, means that their details are not required by condition. Therefore condition 9 can be removed.

AMENDMENT

Condition 1 (approved plans) to be updated with additional plans, delete condition 9 and condition 10 (travel plan) to be renumbered 9.

1 Condition: The development hereby permitted shall be completed in accordance with the following approved plans drawing nos:

END-IBI-XX-XX-PL-A-700-0002 Rev.P2 Site Location Plan
END-IBI-XX-XX-PL-A-700-0003 Rev.P1 Site Plan – Existing Site Levels
END-IBI-XX-XX-PL-A-700-0008 Rev.P2 Retaining Wall Elevations
END-IBI-XX-XX-PL-A-700-0009 Rev.P2 Site Plan – Displacement Car Park
END-IBI-XX-XX-GA-LA-700-0001 Rev.P7 External Works General Arrangement Plan
END-IBI-XX-GF-SP-A-700-0001 Rev.P9 Site Plan
END-IBI-WB-GF-PL-A-200-0001 Rev.P6 Ground Floor Plan
END-IBI-WB-01-PL-A-200-0002 Rev.P6 First Floor Plan
END-IBI-WB-R1-PL-A-240-0001 Rev.P1 Roof Plan
END-IBI-WB-XX-EL-A-200-0001 Rev.P5 General Arrangement Elevations
END-IBI-WB-XX-SE-A-200-0005 Rev.P4 General Arrangement Sections
END-DSS-WB-00-DR-E-68001 Rev.P4 Proposed Ground Floor Security Layout
END-IBI-XX-XX-LL-A-700-0006 P1 Gas Cylinder and Water Tank Enclosure
EDS 07-3102.01 Sht 1 of 3 Rev.C
EDS 07-3102.01 Sht 2 of 3 Rev.A
EDS 07-3102.01 Sht 3 of 3 Rev.A
END-IBI-XX-XX-DT-LA-700-001 Rev.P01

9 Condition Within 12 months of the first use of the development hereby permitted a Travel Plan (the details of which shall be submitted to and agreed in writing by the Local Planning Authority) shall be implemented in accordance with the timetable and targets contained therein and shall continue to be implemented as long as any part of the development is occupied subject to approved modifications agreed by the Local Planning Authority as part of the annual review. Your attention is drawn to Informative 2 of this decision notice that relates to this condition.

9 Reason To ensure that the development offers a wide range of travel choices to reduce the impact of travel and transport on the environment in accordance with the NPPF and Development Plan.

Item No.8/2(c) Page.83

Additional Natural England (NE) Comments:

We welcome the additional information supplied by the applicant on the 17th November 2021, and based on this information, it is Natural England's understanding that there are no records of features of interest in addition to the evidence provided in the Winter Bird Survey Report, within the proposed development footprint. On this basis, Natural England have no objection subject to the recommendations made in our advice letter dated 9th November 2021 (our reference 372297).

However, it is recommended that mitigation is considered at the appropriate assessment stage as opposed to the screening stage of the Habitats Regulations to inform a decision as whether no adverse effect on site integrity can be ascertained. This is in line with the ruling made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of People Over Wind and Sweetman vs Coillte Teoranta (ref: C-323/17). The case relates to the treatment of mitigation measures at the screening stage of a HRA when deciding whether an appropriate assessment of a plan/project is required. The Court's Ruling goes against established practice in the UK that mitigation measures can, to a certain degree, be taken into account at the screening stage.

As a result, Natural England advises that any "embedded" mitigation relating to protected sites under the Habitat Regulations 2017 Regulation 63 (1) should no longer be considered at the screening stage, but taken forward and considered at the appropriate assessment stage to inform a decision as whether no adverse effect on site integrity can be ascertained.

Assistant Director's Comments:

The recommendations Natural England refer to (08/11/21) are already covered in the committee report and appropriately conditioned.

The LPA is required to undertake an Appropriate Assessment (a continuation of the screening process already undertaken and covered in the committee report). This has been undertaken and is attached as an Appendix to this document.

Item No. 8/3(b) Page 128

Third Party: ONE letter of objection stating that having reviewed the amended plans, the amendments fail to address all/any reasons for the refusal under planning reference 21/00560/O or concerns raised in the objector's original letter. Therefore, those concerns remain relevant and invites the Committee to refuse the application.

Water Management Alliance: Further to the additional information being received, the King's Lynn IDB has no further comment to make.

Environment Agency: We have reviewed the amendments submitted and have no further comment to make

Item No.8/3(c) Page.139

Cllr Sandell: Submits a supporting statement as follows:

Thank you for taking time to read this statement of Support for this application.

Docking is a ward I represent within the Borough of Kings Lynn and West Norfolk. I know the area and the site of the proposed application before you.

Swallows Nest lies within the conservation area of Docking.

The application before you today isn't to add an additional dwelling on this site but to extend a very small existing dwelling to a more habitable living space. This would enhance the street scene as the single storey side of the dwelling is in a very poor state of repair and has been for quite some time. There is no rear garden to this property so adding a side extension to this is the only way to make more living space.

There are no objections from Neighbouring properties. The Conservation Team are happier with the amended plans and the principal of the development subject to compliance with other relevant planning policy.

The applicant has addressed the Inspectors comments from the appeal.

I ask for the Committee to agree with the Planning Officer and approve this application.

Item No.8/3(d) Page No.149

Parish Council: Make the following additional comments:

- The parish council would strongly urge the planners to carry out a site visit and talk to the concerned neighbours of Nursery Lodge Farm.
- The proposals are greatly overbearing and overshadowing the neighbours which will lead to a lack of light, loss of privacy and visual intrusion.
- The proposals are out of proportion and will dominate the space.
- The owners of several affected neighbouring properties have repeatedly raised serious objections to the scale and size of the extension to what is a small unobtrusive bungalow. Their quality of life will be seriously blighted by this proposed change to Nursery Lodge Farm.
- The Parish Council objects to the application in the strongest terms.

Third Party: FIVE letters received from previous objectors raising **OBJECTIONS** on the following grounds:

- Property is already very large, built extremely close to boundaries and occupying all reasonable space- overdevelopment of plot.
- Overbearing to neighbours.
- Out of character in the locality.
- Infringe on all surrounding resident's privacy.
- Would overlook due to close proximity to boundaries.
- Overshadowing of gardens and loss of light into neighbouring homes.
- Plot size.
- Owner's future intentions and plans have no bearing on the current planning application and should not be taken into consideration.
- Noise pollution.
- Ownership dispute regarding 4 Beechwood Court (to the west).

Assistant Director's comments:

Most of the issues raised by the Parish Council and members of the public are addressed in the Officer's Report.

The applicant's use of Passivhaus principles and the grassland regeneration and a tree project in collaboration with Norfolk County Council do not form part of the consideration of the planning application.

Ownership of land is a civil matter and the dispute regarding the boundary hedge to 24 Beechwood Court is separate from this planning application.

HABITATS REGULATIONS

Appropriate Assessment for 21/01432/FM Estuary Farm, Edward Benerfer Way, King's Lynn, PE30 2HY

Changes have been made to the Conservation of Habitats and Species Regulations 2017 (as amended) (2017 Regulations). The changes are made by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (2019 Regulations).

The 2017 Regulations are one of the pieces of domestic law that transposed the land and marine aspects of the Habitats Directive (Council Directive 92/43/EEC) and certain elements of the Wild Birds Directive (Directive 2009/147/EC) (known as the Nature Directives).

The Regulations require the competent authority (in this instance the LPA) to ascertain the impacts of a plan or project not directly connected with or necessary to the management of a protected site that may impact on the site.

The competent authority must be satisfied that the project would not adversely affect the integrity of a protected site or, where there is no alternative solution that the project must be carried out for imperative reasons of overriding public interests.

The protected sites are known as Natura 2000 and consist of SACs, and SPAs. Ramsar sites, candidate SACs (cSACs) and potential SPAs (pSPAs) are treated the same as SAC and SPAs for the purposes of the Habitat Regulations Assessment (HRA).

In this instance the following sites need to be considered:

- The Wash NNR (1.47km to the West)
- The Wash Ramsar, SSI, SPA (2.48km to the Northwest)
- The Wash and North Norfolk Coast SAC (2.48km to the West)

Full details of these site's qualifying features and conservation objectives accompanied the application.

When considering potentially damaging operations, the Competent Authority must apply the precautionary principle i.e. consent cannot be given unless it is ascertained that there will be no adverse effect on the integrity of the site with regard to the site's conservation objectives.

The HRA is a staged process.

- STAGE 1: Screening for Likely Significant Effect (considers the scope for likely significant effects to occur based on a broad scale assessment taking into account factors such as the spatial relationship between impact sources and designated site. Screening for likely significant effects considers the project both alone and in-combination with other projects.)
- STAGE 2: Appropriate Assessment and ascertaining the effect on site(s) integrity (if stage 1 identifies likely significant effect an assessment of the implications of the project for the site(s)'s conservation objectives is carried out.)
- STAGE 3: Procedures where Significant Effect on the Integrity of International Sites Remains (if Stage 2 concludes that the project will adversely affect the integrity of the sites or when adverse effects cannot be ruled out, an assessment of alternatives for the project must be considered. Should no alternative be available 'Imperative Reasons of Overriding Public Interest' (IROPI) must be justified and compensatory measures identified.)

Therefore, consent should only be granted for plans and projects once the relevant competent authority has ascertained that there will either be no Likely Significant Effect, or (if that is not possible) that there will be no adverse effect on the integrity of the European Site(s) in question.

Stage 1 Screening

The HRA screening had to be redone due to an inaccuracy in the initial submission which has resulted in the loss of an area of land to the south of the site. The loss of this area resulted in the need for a further desk study to be undertaken in relation to bird use of the footprint of the site from other information sources (i.e. in addition to what was actually recorded on site during the four surveys.)

The conclusion of the desk study is that there are no bird records from the actual footprint area of the site. Therefore, the Desk Study results do not add additional bird value to that which is detailed in the ADAS (2021) Wintering Bird Survey Report.

It is considered that the Desk Study has been undertaken in accordance with the requirements of Natural England, and consider that due to the fact that no additional bird records exist for the site area, the detailed Desk Study did not produce different results from the conclusion of the Winter Bird Survey Report.

Stage 1, including the desk study, has identified that significant effects on the protected sites are unlikely to occur as a result of any phase of the development alone or in combination.

Initially the LPA considered that it was not necessary to carry out an Appropriate Assessment given the outcome of the screening stage. However, comments from Natural England suggest that the LPA should undertake an Appropriate Assessment.

Stage 2: Appropriate Assessment

The application site is not within but is within proximity to the following international designations:

- The Wash NNR (1.47km to the West)
- The Wash Ramsar, SSI, SPA (2.48km to the Northwest)
- The Wash and North Norfolk Coast SAC (2.48km to the West)

1. Is the proposal directly connected with or necessary to site management for nature conservation?

No

2. Is the proposal likely to have a significant effect on the internationally important interest features of the site, alone or in combination with other plans or projects?

No - Full details of the protected sites' qualifying features and conservation objectives, together with any likely impacts, accompanied the application and has satisfied both Natural England and the LPA (the competent authority) that the development would not have a likely significant effect on protected sites subject to conditions (mitigation.)

3. Assess implications of the effects of the proposal for the site's conservation objectives, consult Natural England and, if necessary, the public Consideration has been given to the in-combination effects of recreational pressure on the European Protected Sites identified through the screening process.

The nature of the development is such that it would not result in increased recreational pressures on the protected sites.

4. Can it be ascertained that the proposal will not adversely affect the integrity of the sites?

Yes

5. Would compliance with conditions or other restrictions, such as planning conditions, enable it to be ascertained that the proposal would not adversely affect the integrity of the site?

Yes

6. Are there alternative solutions that would have a lesser effect or avoid an adverse effect on the integrity of the sites?

N/A (no likely adverse effect)

7. Might a priority habitat or species on the site be adversely affected by the proposal?

No.

8. Are there imperative reasons of over-riding public interest relating to human health, public safety or benefits of primary importance to the environment?

N/A, but no.