

**PLANNING COMMITTEE**  
**5<sup>th</sup> December 2016**

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

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**Applicant / Agent:** Notwithstanding that the recommendation on this application is to approve it, Lidl would like to give further consideration to the scope to use locally distinctive materials primarily on the southern elevation of the building. They also suggest the possible inclusion of an element of public art on this elevation (near the entrance) of which the input of the local community could be sought. Lidl would be happy to defer this application to the next meeting of the Committee to enable negotiation with the LPA and consultation with interested parties.

**Norfolk Coast Partnership:** I recognise the additional work that has been done on assessing the potential landscape and visual impact of this proposed development on the edge of the AONB and note the conclusion of the report that the new native planting to the boundary and removal of the existing detracting buildings would provide long term protection and enhancement to the AONB. Although I agree that the impact is likely to be no worse than the existing buildings that would be replaced, and may indeed be an improvement overall, the design of the building and landscaping could be improved to maximise benefits.

The building design is one that appears to be essentially standard for all the company's stores and which, although it may well be appropriate in an urban setting or industrial estate, makes no substantive concessions to its rural and AONB edge setting in this case, with large areas of glazing, for example, on its eastern and southern elevations. Good design in this context would need to be much more than inclusion of token features into a standard model.

Although the setting of the AONB is an important consideration, I recognise that this is not a site of the highest sensitive in terms of visibility and impact on the setting of the AONB. If the Borough Council is minded to approve this design, it may be possible to achieve some further mitigation of its impact in this setting by attention to landscaping details.

It is not apparent how high the native hedge on the western and southern sides is intended to be but clearly the higher this is, within reason (and at least higher than the ornamental shrubs inside it) the more effective the screening would be. I would also suggest that a simpler mix of locally native shrubs (predominantly hawthorn and blackthorn, with only occasional, irregularly spaced individual plants of other locally native species such as hazel and crab apple) would provide a more rural appearance.

While I recognise that visibility from the highway is likely to be a requirement of the company, my preference would be for continuation of the native species hedge on the eastern side facing the AONB, possibly at a lower height (but still higher than the ornamental shrubs behind it) and inclusion of some smaller locally native trees on this side e.g. field maple. Taller native trees and shrubs might also be included on the western side (although this is perhaps less relevant to the AONB setting, but would help with overall integration in views from the south).

**Assistant Director's comments:** The offer by the applicants to include some additional local materials and to therefore amend the design is welcome, and in line with the wishes

of Members when the previous application was considered by the Committee. The LPA therefore believes that deferring the application to the next Committee meeting, to enable agreement on an amended design and then consultation to take place, is the most appropriate course of action.

Recommendation: To **DEFER** the application to the January 2017 Committee meeting.

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**Agent:** Submitted information in regards to the previous use of the land as an orchard. The Orchard was last used in the early 1990 and wasn't actively farmed since the late 1980s.

No pond has been on the site for a period in excess of 50 years.

The appointed Ecologist has confirmed that the site is highly unlikely to be suitable for Great Crested Newts, due to the distance from potential breeding ponds being over 250m (the nearest pond being 335m and the next at 400m). Additionally they are unlikely to move this distance into the development, the Great Crested Newt would also have to cross a main road, a housing estate and the West Lynn Drain. West Lynn Drain is a moving watercourse accordingly not suitable habitats for Great Crested Newts.

The Agent has supplied an amended Surface Water Drainage Strategy based on the 44 dwelling indicative layout. The hard surfacing area now equates to 0.573ha of which 0.422ha is impermeable. The flow rate is now 2.9l/s into the drainage ditch that runs north to south on the site.

**Correction**

An additional plan has been inserted to clarify access details.

28 Condition The development hereby permitted shall be carried out in accordance with the following approved plans:-

- Location Plan amended drawing no. 3282.07 rev A dated 29.09.2016 received 30th September in so far as access only.
- Site Layout Plan drawing no.3282.06.REV B dated 5th October 2016 received 6th October in so far as access only.

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**Agent:** Submitted supplementary site investigation and ground gas investigation information in a bid to remove pre-commencement contamination condition(s).

**Environmental Quality Team:** Requested confirmation that foundation type will be strip foundations.

**Assistant Director's comments:** Confirmation not received therefore pre-commencement contamination conditions are to remain as per the report.

**Corrections:** Condition 17 needs amending to include two additional drawings; 2151-16-A Rev.1 and 2151-16-B Rev.1 and Reason 20 needs amending to replace reference to great crested newts with reference to bats as follows:.

17 Condition All hard and soft landscape works shall be carried out in accordance with drawing nos: 003 Rev P05, 005 P02, 010 Rev P00, 2151-16-A Rev.1 and 2151-16-B Rev.1. The works shall be carried out prior to the occupation or use of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority. Any trees or plants that within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species as those originally planted, unless the Local Planning Authority gives written approval to any variation.

20 Reason To identify the extent of any bat and badger populations in accordance with the NPPF and NPPG.

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**Town Council:** Downham Market Town Council has received this notification twice on 21st November 2016; one with a response date of 28th November 2016, the other with a response date of 12th December 2016.

In our conversation I was made aware the matter will be going before the Borough Council Planning Committee on 05th December for deliberation. Downham Market Town Council does not have a Planning Meeting before that time to contribute to the consultation.

However following our conversation I have liaised with the Chairman, Cllr Frank Daymond. The Town Council's past position is that the link road is an absolute necessity. If the variation is to facilitate the construction of the link road at the earliest possible opportunity the Town Council does not object to the variation. Lastly it should be noted this view has been expressed to aid the planning application process but has not been substantiated by Downham Market Town Council's Planning & Environmental Committee.

**Housing Strategy Officer:** We have looked into this and it seems to be a reasonable compromise.

We are satisfied that the revised condition does not put the affordable housing contribution at risk. By linking the condition to occupation of open market units, it will not at any point prevent the occupation of the affordable units.

8 of the 19 affordable housing units have already been delivered and transferred to Longhurst and Longhurst have confirmed that they have a contract in place for the delivery of the remaining 11 affordable units. Whilst we have not seen this contract, it is standard practice for such contracts to include a deadline date for delivery and if this date is breached there would usually be significant financial penalties.

The revised condition would allow occupation of 62 of the 78 open market units. This means that 20% of the open market units cannot be occupied prior to completion of the road. Whilst the revised condition obviously increases the risk of the road not being completed, the fact that a fifth of the open market units could not be occupied would clearly act as a significant incentive to complete the road.

Third Parties: 6 letters of OBJECTION regarding the following (summarised):

- The developer has already exceeded the 50<sup>th</sup> dwelling limit;

- Provided a precis of application process and considers that revised proposal offers more freedom without committing to completing the road;
- Substitution of the word commencement with occupation is a tactic to delay purchase of the ransom strip;
- Continued delay makes road hazardous;
- Consider that original condition should be upheld;
- Dozens of homes standing empty on site;
- Considers that there have been no material change in circumstances since the original decision, stresses the importance of the link and that the original condition remains reasonable to all.
- Considers that the amended trigger point is not sufficient incentive to and only requires the link to be built before the last 17 open market dwellings are occupied.
- Considers that the original decision was well informed, agreed and fair.

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**Agent:** Submitted additional information to provide clarity in relation to access and trees.

Access

We have spoken with David Mills (PROW Officer) during the determination period of this application to seek clarification as to the nature of his concerns. There are number of points of importance that result.

1. He has not provided any evidence as to why he feels this application would result in additional traffic levels that would be inappropriate;
2. His concerns relate primarily to the impacts of additional traffic on the condition of Rabbit Lane; and
3. He stated that if there was a legal right of way over Rabbit Lane then his concerns would in any event be overridden.

We have sought to address all of these concerns in our response to the application consultation previously submitted and would highlight the following which do not currently appear in the Committee Report:

1. It has been confirmed by Norfolk County Council that repairs to Rabbit Lane will be undertaken (advised 25th November).
2. Peter Brett Associates LLP have advised that the impact of one additional dwelling along Orchard Close that will make use of Rabbit Lane is considered to be negligible and that this new development will not substantially affect the existing interaction between non-motorised users of the Public Right of Way and vehicular users of Rabbit Lane. Furthermore, no objection was raised by Norfolk County Council Highways in relation to safety concerns.

With regards to the rights of way that benefit the property, Mills & Reeve LLP have provided the following statement which confirms the rights of property and has previously been provided to the Local Planning Authority: "First by a conveyance dated 10 June 1983 (referred to at entry A2 of the Proprietorship Register of title number NK272355) the Property has the benefit of a right of way for all purposes over the entirety of Orchard Close leading to Rabbit Lane. Rabbit Lane is a restricted byway over which public rights of way exist. Private rights of access (including a right to drive vehicles) are also asserted to benefit the Property, by virtue of the fact that the Property is accessed from Orchard Close which leads to Rabbit Lane, and from there on to Bexwell Road."

Trees

The report references a previous application to fell a Douglas Fir in a Conservation Area (12/00012/TREECA). Whilst this application was approved and works subsequently carried out, the report incorrectly links this application to the Pine trees that were removed earlier in the year, as referenced within a number of comments received from the public. For clarity, the Pine trees referenced within the received comments that were removed from the application site earlier in the year, before the planning application was submitted, were located outside of the Downham Market Conservation Area and were not subject to any TPO – permission was therefore not required to remove them.

**Assistant Director's comments:** The additional information is useful for the purposes of clarify. However, this does not affect the recommendation to approve the application or require any amendment to the proposed conditions.

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**District Emergency Planner:** Comments that there is no issue with the revised design, flood risk assessment and fresh application. Access routes for access/egress for properties to the north of the site will not be compromised

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**Agent:** Has raised concerns regarding the archaeological conditions given that the proposed lodges do not involve any excavation works. Has requested that the condition be amended to reflect the affected plots (85-87).

**Assistant Director's comments:** Whilst the proposal does involve the change of use for the siting of the lodges, the plots will required foul drainage which involves excavation works. However, give that plots 85-87 are the affected plots (confirmed by HES), it is considered reasonable to amend Condition 4 as follows:

Amended Condition

4 Condition No development shall take place on Plots 85 - 87 (inclusive) until a Written Scheme of Investigation for a programme of archaeological works has been submitted to and approved by the local planning authority in writing. The scheme shall include:

1. An assessment of the significance of heritage assets present
2. The programme and methodology of site investigation and recording
3. The programme for post investigation assessment of recovered material
4. Provision to be made for analysis of the site investigation and recording
5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
6. Provision to be made for archive deposition of the analysis and records of the site investigation
7. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.