

<b>Parish:</b>	<b>Hockwold cum Wilton</b>	
<b>Proposal:</b>	<b>Detached dwelling with cart shed (garage)</b>	
<b>Location:</b>	<b>Land Between 15 And 19 Nursery Lane Hockwold cum Wilton Norfolk</b>	
<b>Applicant:</b>	<b>Mr Mark Want</b>	
<b>Case No:</b>	<b>17/00296/F (Full Application)</b>	
<b>Case Officer:</b>	<b>Mrs N Osler</b>	<b>Date for Determination: 24 April 2017 Extension of Time Expiry Date: 8 September 2017</b>

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

### **Case Summary**

Full planning permission is sought for the erection of a detached 2.5-storey, four / five bedroom dwelling with detached garage.

The site lies within the development boundary of Hockwold which is classified as a Joint Key Rural Service Centre with Feltwell. The site is located in Hockwold Conservation Area.

The site lies within Flood Zone 1.

### **Key Issues**

Principle of Development  
Highway Safety / History / Appeal  
Form and Character and Impact on Conservation Area  
Neighbour Amenity  
Other Material Considerations

### **Recommendation**

**REFUSE**

## **THE APPLICATION**

Full planning permission is sought for the erection of a detached 2.5-storey, four / five bedroom dwelling with detached garage.

The site lies within the development boundary of Hockwold which is classified as a Joint Key Rural Service Centre with Feltwell and comprises a fenced-off area of garden land historically belonging to No.19 Nursery Lane.

The site lies within Hockwold Conservation Area and is in Flood Zone 1.

## **SUPPORTING CASE**

The development proposal is to build a 2.5 storey detached traditional dwelling with a cart shed style garage at the front and onsite parking and turning.

The application site lies inside the Hockwold-cum Wilton Conservation Area and the development boundary for the village as defined on insert G35 map for Hockwold-cum-Wilton in the Site Allocation and Development Management Policies Plan Document (adopted September 2016).

The design and materials are of a high quality and standard, making a positively contribution to this part of the Conservation Area. The development is therefore considered to comply with Policy CS12 of the Core Strategy, which requires proposals to protect and enhance the historic environment; Policy DM15 of the SADMPD, which requires development proposals to protect and enhance the amenity of the wider environment including its heritage and cultural value; and Paragraph 137 of the NPPF, which states that local planning authorities should look for opportunities for new development within Conservation Areas to preserve or enhance the setting of the area.

The village offers a range of services and facilities that are accessible from the application site, which can meet the basic day-to-day needs of local residents, and any future occupant. In turn any future occupant will therefore contribute positively to the local economy. It is noteworthy that the Parish Council supports this planning application.

The application site is situated between 17 and 19 Nursery Lane, and comprises an area of unused land, rectangular in shape and measuring approx. 51m (length) x 15m (width). It is therefore capable of accommodating the proposed development.

Historically, the application site was the subject of an enforcement investigation regarding the demolition of the brick and flint boundary wall. A planning application to rebuild the wall and retain the existing access was submitted and approved by the Council (Planning Permission: 15/00013/F).

In relation to the current application the NCC Highways Officer has requested that the application be amended to include relocating the access to the north and closing the existing access to No. 19 Nursery Lane. This would result in a driveway through the front of the application site. This is not an option because No.19 is outside of the applicant's control and moreover would result in the loss of the garage and disturbance to future occupiers of the dwelling the subject of this planning application.

It is noteworthy that the proposed new access location provides for better visibility, and moving the access location and tapering the boundary wall to improve the access at No.19 provides an acceptable solution.

Consideration must be given to the fact that there is an existing access that can be used daily without any restrictions.

Notwithstanding this, since the previous refusal and appeal decision, a traffic count / speed survey was commissioned and expert highway advice obtained. The survey and advice confirms that the mean / 85th percentile speeds for Nursery Lane are 20.4 / 26.2mph northbound and 19.3 / 24.4mph southbound. NCC Highway Authority estimated the 85th percentile speeds at 23mph southbound and 28mph northbound. Therefore, the actual

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speeds along Nursery Lane are lower than previously considered by the Council and Inspector at appeal. Additionally, you will note that the proposed new access provides 'Y' distances of 40m to the north and 35.2m to the south (1m off nearside verge).

The highway expert is of the view that taking into account the road frontage and local circumstances, these distances are acceptable in planning terms.

It is therefore considered that the new proposed access complies with Policy CS11 of the Core Strategy, in that it the proposal provides for a safe and convenient access.

Notwithstanding the above, it is wrong to say that the Manual for Streets requires specific sightlines – it recommends them. This suggests that the LPA has no discretion in this matter which is not the case as it is not obliged to act on a Highways observation.

There is also no conflict with Paragraph 32 of the NPPF, which states that “Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.” At appeal, severe was considered to mean a development that would make it “significantly worse” or that the “residual cumulative highway problems would be extreme” (see: Lightfoot Lane, Preston (App/N2345/A/13/2193377)). The Inspector in the Preston case concludes that “with these works in place the scheme would be unlikely to result in any significant worsening of congestion ... the appeal scheme would not result in any significant compromising of highway safety”.

There is an existing access approved by the Council in 2015, of which is a material planning consideration. Therefore, in this particular case, the issue for determination in respect of highway safety ought to be whether the proposals would make visibility worse or amount to a residual cumulative impact of severe.

It would be difficult to conclude that the new proposed access location, of which was requested by the Highway Officer, and which improves the visibility for the application site and No.19, amounts to development where the residual cumulative impacts of the development are severe. This is because, it is considered that the additional traffic likely to be generated from this proposal will be less than 5% of what the road currently carries, which under normal circumstances is not considered to be significant.

Based on the above Members of the Planning Committee are respectfully invited to grant conditional planning permission.

## **PLANNING HISTORY**

15/00013/F – Replacement front wall between no.17 & no. 19 – Permitted March 2015

13/00409/F – New detached dwelling with cart shed style garage including replacement wall – Refused July 2013 and dismissed at appeal (January 2014)

## **RESPONSE TO CONSULTATION**

**Parish Council: IN FAVOUR** although expressed concerns relating to the previous enforcement on the wall and works done on the wall

**Highways Authority: OBJECT.** The Local Highway Officer writes: *Unfortunately it is evident that the access would not be appropriate for the proposed development.*

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*I am surprised to see that the applicant has sort to submit a further application on this site given the conclusion of the previous application and the subsequent appeal decision to dismiss the appeal on highway safety grounds. In this respect I refer you to the highway comments made and conclusion of the inspector which are helpfully included within the agents Design and Access statement.*

*I note that the inference of this application is that the more recent permission to construct a relocated wall fronting the site enables the site to be provided with safe access provision. However, while it is recognised that the wall permitted under planning application 15/00013/F would improve conditions for the existing point of access and therefore for existing dwelling. It does not however create such conditions to accord with the guidance provided by Manual for Streets to enable a further intensification of traffic to result from the site.*

*In the Design and Access Statement (Highway Safety) and Assessment of Vehicular Access provided by the applicant, I note that the agent refers to the consideration of mean speed values resulting from the traffic survey commissioned. Manual for Streets is however clear in this respect (section 7.5) being that the 85th percentile wet weather speeds only are to be considered and the application falls short on this requirement:*

*The traffic survey report finds that 85th percentile speeds north bound of 26.2mph are recorded and therefore splays of 2.4m x 36m would be required to the south. Southbound 85th percentile speeds of 24.4mph are also found and therefore splays of 2.4m x 32m should be provided to the north of the point of access.*

*Plotting the applicant's proposals onto their topographical survey and taking into account the land in the applicants control edged red; to the north a splay measured from 2.4m into the access to the brick column of the neighbour's access provides the site with 24m of visibility. This is 8m less than that required and just 75% of the recommended standard.*

*To the south of the site access visibly splays are much worse due to the position of the gable end of the existing dwelling, the result being that just 11m can be observed. This distance is 22m short of the recommended standard and just 31% of the recommended standard.*

*It is of further note that even if, which they are not, mean speed could be considered it is apparent that the splay to the south of the site would still fall short by a significant distance. I note that the applicant has not made much reference to the percentage difference of the original assessment but has not made reference to the actual distances that can be achieved which are substandard.*

*As I believe that an approval of the application would result in conditions to the detriment of highway safety I recommend that the application be refused for the following reason: **Inadequate visibility splays are provided at the junction of the access with the County highway and this would cause danger and inconvenience to users of the adjoining public highway. The development is therefore contrary to the NPPF and Development Plan Policies CS11 and DM15.***

*In response to additional information supplied by the applicant the LHO commented 'I have already had correspondence with the agent on this and expressed our view, which is that we would not support the proposed as the proposed access is substandard for their recorded 85th percentile speed data. That is unless they can also negotiate that the access of No19 is put through the proposed point as overall than would then offer some highway improvement. The agent has however said that No.19 is not part of the application so ultimately we would object'.*

**Environment Agency:** In relation to groundwater protection the EA has **NO COMMENTS** to make

**Environmental Health & Housing – Environmental Quality:** **NO COMMENTS** to make in relation to air quality or contaminated land

**REPRESENTATIONS** One letter of objection has been received. The author writes:

*Assessment of Vehicular Access*

*There are a number of entries on this report that are inaccurate, and not representative of the vehicles using this road.*

*Para 3.0 - Under site history, 19 Nursery lane is a 5 Bed property as opposed to 4 bedroom as stated. Planning permission for the improved access was granted under 15/00013, and was not opposed. No consultation or notices were received to inform us that the planning application was in which would have given us the opportunity to oppose it. We would welcome an opportunity to air our concerns regarding the additional vehicular access as the angle of the wall shown on the plans would make it difficult to get in and out of our drive. One other thing to consider is that Nursery Lane has significant issues with flooding and whilst the road is showing at just over 3m wide, the road is regularly only passable on the side where the new dwelling will be situated, and the gravel area in front of the house is used regularly as a safe passing place, this will affect safety of vehicles down this street.*

*Para 4.0 - The time period tested is not representative of traffic on this road, from 28th February to 6th March, there would be little, if not any agricultural traffic, and the traffic to East Fen holiday lodges would be minimal.*

*Plans*

*We would like to oppose the height of the building whilst it would affect the light to our premises, we feel that it is totally out of character with other houses along Nursery lane, being the only one with 2 ½ storeys, and the only one set back quite so far.*

*The land has a covenant on it that does not allow a business to be run from this premises, but the premises is described as a 4 bedroom with a studio and not a 5 bedroom, but a studio suggest some form of business is planned at the property, and a five bedroom would result in more cars going to and from the premises.*

One letter expressing concern to the height of the dwelling was also received.

**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

**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

**DM15** – Environment, Design and Amenity

**DM17** - Parking Provision in New Development

## **PLANNING CONSIDERATIONS**

The main issues for consideration in the determination of this application are:

- Principle of Development
- Highway Safety / History / Appeal
- Form and Character and Impact on the Conservation Area
- Neighbour Amenity
- Other Material Considerations

### **Principle of Development**

The site lies within the development boundary of a Joint Key Rural Service Centre. As such the principle of development is acceptable subject to compliance with other relevant policy and guidance.

### **Highway Safety / History / Appeal**

The NPPF states, at paragraph 32, that ...'[planning] decisions should take account of...whether safe and suitable access to the site can be achieved for all people'. This is reiterated in policies CS11 and DM15 of the Development Plan.

Planning application 13/00409/F was refused and dismissed at appeal (APP/V2635/A/13/2203725) for the following reason: *Inadequate visibility splays are provided at the junction of the access with the County highway and this would cause danger and inconvenience to users of the adjoining public highway. The development is therefore contrary to policy CS11 of the adopted King's Lynn and West Norfolk Borough Council Core Strategy.*

The Inspector stated at paragraph 10 of his report that *'Nursery Lane primarily serves dwellings but connects to Eastfen Drove which serves a fishing facility and to a byway which connects with Church Lane. The fishing facility is likely to attract through traffic in addition to the local traffic to and from the dwellings along Nursery Lane. There would also be visitors to the dwellings along the road. Therefore not all users of the road would be familiar with its*

*characteristics. Although traffic on the road may be relatively light, this does not justify setting aside the accepted highway safety standards.*

*Forward visibility along Nursery Lane is generally good but inter-visibility between drivers using the road and the proposed access drive would be inadequate and this would pose an unacceptable hazard to road users.*

*The appellant refers to the extensions to No 19 which were permitted under a previous planning permission. Whether or not there were any highway objections to that development a new dwelling is likely to generate more vehicle movements than an extension to an existing dwelling.*

*For the reasons given above the proposal would be prejudicial to highway safety and would not accord with Policy CS11 of the King's Lynn and West Norfolk Borough Council Core Strategy which requires that development proposals provide for safe and convenient access.*

*For the above reasons I conclude that the appeal should be dismissed'.*

The latest history on the site was for a 'replacement wall between numbers 17 and 19'. This application was required due to the unlawful demolition of the original wall which occurred shortly after the refusal of the aforementioned application.

As part of the replacement wall application, an access into the site (which was, and until such time as permission may be granted is, garden land most recently associated with No.19) and an amended access to No.19 were also approved. The applicant / agent suggest that this is a material consideration. However, the access serves a parcel of garden land which has stood vacant for a number of years. As such it is not an access that serves land this would generate any vehicular activity. If the access were to serve a dwelling the vehicular activity associated with it would therefore have to increase.

Of further note is that the current application has brought attention to the fact that the replacement wall application has still not been fully implemented. Whilst it appears the amended accesses have been put in place, the wall has not been replaced and the telegraph pole has not been moved. A rather ugly and incongruous close-boarded timber fence has been erected instead. If the current application is not approved further action will be taken to make good what was unlawfully destroyed via the enforcement team.

There has been significant correspondence between the agent and Local Highway Officer in a bid to find an acceptable solution to the visibility issue. However, the main issue is that No.19 directly abuts the highway and restricts visibility. This cannot be changed and therefore it has not been possible to suitably address the LHO's concerns. Notwithstanding this the LHA considers that if some betterment could be achieved by moving the existing access of No.19 (which is severely substandard) then a balance is to be made and that the sub-standard access proposed under the current application could be found acceptable. The applicant does not however have control over this aspect. Furthermore the agent suggests this solution would mean that the current scheme would lose the garage which is unacceptable to the applicant.

In conclusion, permission was historically sought on this parcel of land but failed on the grounds of highway safety. What followed was the unlawful demolition of a wall in a conservation area and an application to rectify the situation by replacing the wall. An additional access to garden land was also approved as was a new access to No.19 under the replacement wall application. However the application was for a replacement wall due to unlawful demolition of the existing wall following refusal of a planning application; it was not to consider whether a new access would one day be suitable for a residential plot. On this

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specific point the LHO states: *“The application to provide a new wall is very different because its approval would not ultimately result in increases in traffic from the site. Visibility levels for the wall were not to standards but as traffic levels would not increase it was no worse and offered a small improvement for the existing dwelling. On that basis only we had no objection.*

*An approval of this application however would result in the loss of improvement for the existing dwelling and results in an increase in detrimental impacts to the highway as it effects a doubling of traffic through substandard accesses.”*

Given the history on the site and for the reasons outlined by the Local Highway Officer, your officers do not believe that the applicant has sufficiently addressed the previous reason for refusal and dismissal at appeal. Approval of this application would therefore result in an unsafe access contrary to the NPPF and Development Plan Policies CS11 and DM15.

### **Form and Character and Impact on the Conservation Area**

The previous application was for an identical building. At that time neither your officers (including the Conservation Officer) nor the Inspector considered that the dwelling would be of detriment to the character of the Conservation Area.

Circumstances in the locality of the site have not altered to any significant degree since this assessment was made to suggest the design is no longer acceptable.

### **Neighbour Amenity**

Neighbour amenity would also have been fully considered by both officer and Inspector as part of the previous application. In this regard, and contrary to one third party concern, circumstances have not changed to any degree to suggest the impacts would be any greater than previously considered to be acceptable.

In relation to the third party comment relating to business use, your officers have no reason to suspect the dwellinghouse would be used for anything other than residential use. However, if a business, that constitutes a material change of use, does begin to operate from the site, planning permission would be required and the impacts would be fully assessed at that time.

### **Crime and Disorder**

There are no specific crime and disorder issues arising from the proposed development.

### **Other Material Considerations**

Neither the Environment Agency nor Environmental Quality officer wishes to restrict the grant of permission having no comments to make on the application.

## **CONCLUSION**

The site lies within an area where the principle of residential development is acceptable. However, safe access cannot be achieved and therefore the proposed development is contrary to the NPPF and Development Plan. As such it is recommended that this application be refused and that enforcement action is taken to ensure that the existing fence



is removed and replaced with the wall that was granted permission under application 15/00013/F.

**RECOMMENDATION:**

**REFUSE** for the following reason(s):

- 1 Inadequate visibility splays are provided at the junction of the access with the County highway and this would cause danger and inconvenience to users of the adjoining public highway. The development is therefore contrary to the NPPF and Development Plan Policies CS11 and DM15.