

<b>Parish:</b>	<b>Burnham Market</b>	
<b>Proposal:</b>	<b>Change of use to garden land (retrospective).</b>	
<b>Location:</b>	<b>Spinneys End 1 Woodside Docking Road Burnham Market</b>	
<b>Applicant:</b>	<b>Mr Jeremy Neville-Eliot</b>	
<b>Case No:</b>	<b>17/02068/F (Full Application)</b>	
<b>Case Officer:</b>	<b>Mr James Sheldrake</b>	<b>Date for Determination: 3 January 2018 Extension of Time Expiry Date: 12 February 2017</b>

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

**Neighbourhood Plan:** No

**Case Summary**

The application site lies within the development boundary of Burnham Market. Burnham Market is classified a Key Rural Service Centre according to Policy CS02 of the Local Development Framework Core Strategy 2011.

The proposal seeks change of use to garden land.

**Key Issues**

- Principle of the change of use
- Amenity issues
- Other material considerations

**Recommendation**

**APPROVE**

## **THE APPLICATION**

The application site lies in the south-west of Burnham Market, within the development boundary. The change of use has already occurred.

The land is attached and owned by 1 Woodside to the north and is bounded on the south-west by the property known as Westmead, the north-east by the Woodside private road and has a low brick and stone wall on its frontage on the B1155 Docking Road to the south. On its boundary with the Woodside private road is close boarded timber fencing.

The existing site is gravelled and is bounded by close boarded timber fencing on the north-east and a low brick and stone wall on its frontage on the B1155 Docking Road. Google Street View imagery from 2011 indicates that previously there were trees on the site which have been removed.

The site was in the ownership of the Woodside developers in 1988 when consent was granted, but wasn't part of the application site. After the developers became bankrupt the land that makes up the current application site was attached to Plot 1 (No. 1 Woodside). The owners of No. 1 applied for planning permission for a cart shed on the land in question, however, it was determined that the site wasn't garden (because it didn't form part of the original plot for No. 1) and therefore a planning application to change the use of the land was required.

## **SUPPORTING CASE**

The applicant submitted the following supporting statement (submitted 23/01/2018):

"We purchased Spinney's End in September 2016 as our retirement home. The property and garden were in substantial need of maintenance and updating to bring them up to standard. On purchase, approx. 2/3 of the area referred to by the application was fenced in forming part of the garden. However, the fence was rotten and in urgent need of replacement. Contained within the fenced area were three trees. One, a silver birch, was diseased (confirmed by our tree surgeon), was leaning towards Woodside and potentially a threat to 'West Rim', on the opposite side of Woodside. The remaining 1/3 of the area, towards Docking Rd was roughly grassed, and contained a large multi stemmed Leylandii Cypress, approx. 12 metres in height and on the border with 'West Mead' a lilac bush which was overgrown and collapsing onto the ground. The area had the appearance of wasteland.

Summary of our actions to improve Spinney's End:

Following purchase, we embarked on a programme of modernisation of the property and sought ideas to tidy and improve the garden. We were advised by a retired town planner and other professionals including Strata Architecture, who were subsequently appointed to design our extension and act on our behalf. The strip of land under discussion was considered by our advisors to be unattractive, due to the overgrown and poor state of the trees and shrubs. We were advised to tidy up the area so it was in keeping with a smart residential development. It was considered this would benefit our property and those of the other residents. Additionally, parking in Woodside can be a particular problem when any of the houses have several visitors. If additional cars are parked outside the houses, in the private roadway, turning can be difficult. We wanted to create an additional parking area for ourselves, which would potentially take the pressure off Woodside, at such times as parking is an issue. The idea of extending the fenced in area of the garden, shingling it to create additional parking and adding a wall to mirror that on the other side of Woodside entrance was proposed. It was also suggested we might add a cart shed at the north end of the strip.

Planning Committee  
5 February 2018

This would be in keeping with many other properties in Burnham Market. Planning permission would be required for the cart shed. We discussed our plans with our neighbours who would be most affected by the development. The owners of 'West Rim', on the opposite side of the Woodside entrance, welcomed the proposed changes. Removal of the overgrown trees would improve the light to their house and garden and they saw them as unsightly and potentially a danger to their property. They felt the proposed cart shed wouldn't affect them. After lengthy discussions we progressed with the improvements and changes.

In September, Strata Architecture applied for planning permission for ground floor extensions to the house at the front and rear and for the proposed cart shed with storage above. We were advised by Strata, in consultation with the planners, that it was unlikely that permission for the cart shed would be given application due to height of the roof and they advised we withdraw this part of the application. We received approval for our house extension application during October. Strata subsequently made a further application for the cart shed on our behalf along with an application for Change of Use for the area to formalise the area as part of our garden. No issues were foreseen by the case officer with granting the change of use but again it was felt the height of the proposed building would be unacceptable and following their recommendation we withdrew the cart shed application. In summary, no evidence has been presented to us, the applicant, that the area at the entrance has been specifically designated as green space, it can therefore only be determined as 'ambiguous' space. It should be noted that the application site is not within the conservation area, and none of the trees have TPO's. Furthermore we understand that in accordance with current planning policies, there would be no need to provide green or open space for a small development such as Woodside. The works that we are in the process of carrying out will enhance the entrance to Woodside and improve the immediate area. These works will include an appropriate planting scheme to soften the appearance of the fence and wall and a landscape architect is currently advising us on this."

## **PLANNING HISTORY**

17/01790/F: Application Permitted: 31/10/17 - Extension and alterations to dwelling; Single storey rear extension and replacement porch (Cart Shed removed from application)

2/88/4257/F: Application Permitted: 15/11/1988 - Construction of 7 No dwellings.

## **RESPONSE TO CONSULTATION**

**Parish Council: OBJECTION** on the basis that the land is "designated Open Space" to "soften the street scene and the entrance into Woodside and presumably for the enjoyment of the residents of all four houses in the cul-de-sac".

**Highways Authority: NO OBJECTION**

**Norfolk Coast Partnership: NEUTRAL COMMENT** whilst the proposal will I believe have no impact on the wider visual quality of the AONB, the development will be at odds with the rest of the street scene and is awkwardly placed. The open space softens the development area so would be a shame to lose this.

**Open Spaces Society: OBJECTION** on the basis of information submitted by the objecting neighbour.

## **REPRESENTATIONS**

11 pieces of correspondence were received to the proposal from the occupants of 1 neighbouring property. The grounds of **objection** are summarised below:-

- The land is outside the Woodside development application site and isn't part of the applicants garden.
- The land is open space/ amenity land set aside for landscaping to soften the boundary and screen the development.
- The applicants have breached the landscaping condition of Application 2/88/4257/F and haven't fulfilled the Borough Council's original vision for the development.
- The access driveways to the Woodside development were envisaged as being flanked by hedges in Application 2/88/4257/F.
- On the site plan for Application 2/90/1671/F "Construction of dwelling house with associated car park" it indicates that the site currently being assessed was "intended to be landscaped".
- The change of use of the land contravenes SADMP Policy DM15 on the grounds of "visual impact", "the loss of important open spaces and greenery" and "significant adverse impact on the amenity of others".
- The change of use to garden land would degrade and undermine the secluded nature of Woodside.
- What the applicants have already done is unattractive and the fences don't soften the development.
- The amount of parking is excessive.
- The applicants have removed the few trees that were planted on the site.
- The applicants should have to re-implement/ implement landscaping on the site and the boundary to the site.

## **LDF CORE STRATEGY POLICIES**

**CS01** - Spatial Strategy

**CS02** - The Settlement Hierarchy

**CS08** - Sustainable Development

## **SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016**

**DM22** - Protection of Local Open Space

**DM1** – Presumption in Favour of Sustainable Development

**DM2** – Development Boundaries

**DM15** – Environment, Design and Amenity

## **NATIONAL GUIDANCE**

National Planning Policy Framework (NPPF)  
Planning Practice Guidance (PPG)

## **PLANNING CONSIDERATIONS**

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

- Principle of the change of use
- Amenity issues
- Other material considerations

### **Principle of the change of use**

Policy DM2 (Development Boundaries) of Site Allocation and Development Management Policies Plan (2016) states that "Development will be permitted within the development boundaries of settlements shown on the Policies Map provided it is in accordance with the other policies in the Local Plan". The site is within the development boundary of Burnham Market and therefore the relevant SADMP policies are DM15 (Environment, Design and Amenity) and DM22 (Protection of Local Open Space)

Policy DM15 states that "Development that has a significant adverse impact on the amenity of others or which is of a poor design will be refused".

Policy DM22 states that the Local Planning Authority will consider the following factors:

Public access;  
Visual amenity;  
Local distinctiveness;  
Landscape character;  
Recreational value;  
Biodiversity, geodiversity  
Cultural value and historic character  
Whether the site has been allocated for development in the local plan.

Proposals that will result in the loss or restriction of access to locally important areas of open space will be refused planning permission unless such loss can be offset by the replacement of equivalent or higher standard of provision or the wider benefits of allowing development to proceed outweigh the value of the site as an area of open space."

### **Amenity Issues**

The site is within the development boundary of Burnham Market, not part of any previous application site, not designated open space/ amenity land and has been fenced off and private (this is clear from Google Street View imagery from 2011). It is clear that the site wasn't previously garden and was outside the plot of No.1, although physically attached, and the current application seeks to retrospectively regularise the change of use of the land to

garden. It is of note that the site was originally transferred to No. 1, and has never been publicly accessible and usable open space.

The main issue to consider is whether the change of use to garden land complies with Policy DM15 and Policy DM22.

Policy DM22 is designed to ensure there is suitable protection for locally important open space. The view of the officer in this case looking at the criteria in DM22 is that the application site has never been publicly accessible; isn't locally distinctive; doesn't make a significant contribution to landscape character; has never provided recreational value; it provides minimal biodiversity and geodiversity value; and provides no cultural value or contribution to historic character.

With regard to Policy DM15, although the change of use to garden land has already occurred, it doesn't result in an adverse impact on the amenity of others and isn't significantly out of character in the street-scene given the other gardens and parking areas visible in the immediate vicinity.

Burnham Market Parish Council, the objecting neighbour and the Open Spaces Society (after being contacted by the neighbour) have asserted that the application site is amenity land/ public open space to soften the Woodside development and that the conditions and original vision of that application should therefore apply. This is incorrect; the application site currently being assessed wasn't part of the Woodside development application site (App: 2/88/4257/F (Permitted: 15/11/1988 - Construction of 7 No dwellings) but was simply in the ownership of the applicants of that application and was not covered by conditions of the planning permission. The landscaping conditions (referred to in correspondence between the occupier of No.1 and the Local Planning Authority over 25 years ago) don't apply to the current application site and, separately, the conditions of that application are not enforceable because of the time that has lapsed (over 10 years). Additionally, although the access driveway to Woodside was envisaged as being flanked by hedgerows, fences were constructed instead and the fence surrounding the current application site matches the fence on the opposite side of the access driveway.

The objecting neighbour has commented that the site plan for App: 2/90/1671/F ("Construction of dwelling house with associated car park" not implemented) shows the current application site as "fully landscaped". The current application site was not within the application site of App: 2/90/1671/F and the indicative planting visible on that site plan is not significant to the principle of the change of use to garden land over 25 years later.

Burnham Market Parish Council are concerned that the land being considered is "designated Open Space", which it is not. The site is within the AONB, like the rest of Burnham Market; however, given that it is in the development boundary, the conversion of the land to garden will not have any impact on the wider AONB. This view is supported by the Norfolk Coast Partnership Officer.

### **Other material considerations**

The applicants had originally proposed a cart shed but this has been removed from the application and comments covering that issue are not relevant to the principle of the change of use to garden land.

Burnham Market Parish Council and the objecting neighbour have made reference to the removal of trees from the site prior to the submission of the application. The trees visible on Google Street View imagery were not covered by Tree Preservation Orders or in the Burnham Market Conservation Area and therefore their removal didn't require consent.

Planning Committee  
5 February 2018

The objecting neighbour has also commented that the additional car parking space is incongruous and "out of all proportion to their typical parking requirements". Because the principle of change of use is considered acceptable, residential parking on the site would be acceptable. Additionally, although the objecting neighbour finds the work already completed to change the use of the land unattractive; the visual impact of the development isn't significantly different to other garden and parking areas along Docking Road, and the materials of the fence and wall match others in the vicinity.

## **CONCLUSION**

The principle of the change of use is acceptable and the change doesn't result in a significant adverse impact on the amenity of others or any significant visual harm to the character of appearance of the area.

The proposal therefore accords with policies DM1, DM2, and DM15 of the Site Allocations and Development Management Policies Plan 2016 and the provisions of the National Planning Policy Framework 2012 and is sustainable development. It is therefore recommended for approval.

## **RECOMMENDATION:**

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

- 1 Condition: The development hereby permitted shall be carried out in accordance with the following approved plan:  
DWG 356-10B Location and site plan (12th December 2017)
- 1 Reason: For the avoidance of doubt and in the interests of proper planning.