

Parish:	Heacham	
Proposal:	Construction of two detached dwellings, plus change of use of one existing dwelling from holiday let to a private property and safety improvements to existing vehicular entrance to site	
Location:	Cheney Hollow 3 Cheney Hill Heacham Norfolk	
Applicant:	Miss Louise Hutchison	
Case No:	18/00369/F (Full Application)	
Case Officer:	Mrs K Lawty	Date for Determination: 30 April 2018

Reason for Referral to Planning Committee – Called in by Councillor Parish

Neighbourhood Plan: No

Case Summary

The application site comprises four existing properties and a grassed area used in connection with the properties as garden land. Vehicular access is currently to the north of the site onto Cheney Hill, Heacham.

The site is bounded to the south and south east by residential properties. There are existing residential properties on the opposite side of Cheney Hill to the south east and north east. Heacham Junior School and playing fields adjoin the western site boundary.

In policy terms Heacham is a Key Rural Service Centre as identified within the Core Strategy.

This application seeks full planning permission for the construction of two detached dwellings on the existing garden land, the change of use of one existing dwelling from holiday let to a private property and safety improvements to the existing vehicular entrance into the site from Cheney Hill.

Key Issues

- Principle of development
- The application
- Form and character
- Neighbour amenity
- Highway improvements
- Other matters

Recommendation

APPROVE

THE APPLICATION

The application site comprises four existing properties and a grassed area used as garden land. Vehicular access is currently to the north of the site onto Cheney Hill, Heacham.

This application seeks full planning permission for the construction of two detached dwellings on the existing garden land, the change of use of one existing dwelling from holiday let to a private property and safety improvements to the existing vehicular entrance into the site from Cheney Hill.

The property that is proposed to be used as a private property rather than just holiday lets is that shown on the proposed plans as Badger's Den, and no physical changes are proposed to this existing property to achieve this.

No changes are proposed to the properties shown as Cheney Hollow, Cheney House and Hillside although changes are proposed to the parking areas, position of boundaries and vehicle access points. The works will also involve the removal of some outbuildings.

The application also proposes highway works to improve the visibility at the existing vehicular entrance into the site from Cheney Hill and the widening of the existing private access road within the site.

Members will recall that this application was referred to the previous Planning Committee Meeting on 4 June 2018.

The application was deferred following a request for more information and legal advice regarding common land issues.

Part of the land at the access into the site is registered as common land and works which affect common land can only be approved by the Secretary of State. Concern was raised that the application was being dealt with in the wrong order and that if the Committee approved the application then this could prejudice the decision of the Secretary of State.

In response to concerns raised by members legal advice has been sought which confirms the following:

'Under the Commons Act 2006, consent is required from the Planning Inspectorate, on behalf of the Secretary of State, to carry out works that would prevent or impede access to common land or for works of resurfacing. Any such consent is for the purposes of the Commons Act only and does not grant any other consents, such as planning permission that may be necessary.

In determining a section 38 application for Commons Act consent, the Secretary of State is required to have regard to specified criteria, such as the interests of persons with specific rights in relation to the land, the interests of the neighbourhood, the public interest and any other relevant matters. While a prior grant of planning permission may well be a relevant matter it would not prejudice the Secretary of States consideration of the application, which is entirely separate from planning permission.

There is no specific order in which these consents have to be obtained, although guidance indicates that obtaining planning permission first ensures that the Commons Act application will correspond to what the planning permission has been obtained for. I do not see any

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reason why the opposite argument would not equally hold true. Ultimately it is a matter for the applicant, taking into account the risk of discrepancies arising from applications that are pursued concurrently. The point to bear in mind is that the works cannot be lawfully undertaken until all necessary consents have been obtained and they must be undertaken in compliance with them all.'

Accordingly, the determination of this planning application by the local planning authority will not prejudice the Secretary of State's consideration of the section 38 application for Commons Act consent.

SUPPORTING CASE

The application has been supported by a Design and Access Statement, Ecology Report, Flood Risk Statement, contamination questionnaire and Tree Protection Plan.

The DAS describes the proposal thus:

The proposed improvements for the site are holistic in nature in that the proposed alterations are not limited to one aspect. The proposal includes:

- Improving the existing vehicular accesses onto 'Cheney Hill'– The intention is for the current 'heater island' access arrangement to be made into a single vehicular entrance constructed perpendicular to 'Cheney Hill'. In doing so, visibility distances are improved and the current oblique views removed.
- Change of use of 'Badger's Den' from a holiday let to a private dwelling– The Planning Application seeks a 'change of use for' 'Badger's Den, currently a holiday let property. As part of this, the existing vehicular entrance gate will be removed with 'Badger's Den' being access via the altered principle vehicular entrance to the site.
- Dedicated parking for 'Cheney Hollow'– At present, Vehicles Park alongside the access road serving 'Hillside'. The proposal will be to create dedicated parking for two cars.
- Two new detached dwellings on un-used land– The Planning Application includes for two new dwellings to be built on un-used land with each dwellings benefiting from private parking.

With regard to layout and scale the DAS explains:

'The development proposal has considered the site topography, characteristics and surrounding context to satisfy both the client and the Design Team's ambition of providing a high quality design solution.

The orientation and alignment of the proposed residential dwellings (Plots 1 and 2) is in direct contextual response to the arrangement of the site and the orientation of the neighbouring buildings, namely 'Hillside', 'Cheney Hollow' whose principle elevations face north-west.

In line with Norfolk parking standards, each of the proposed dwellings (including Badger's Den (also known as Garden Cottage) is served with two parking spaces. The Planning Application scheme also includes dedicated parking spaces for 'Cheney Hollow' with 'Cheney House' already having dedicated parking by way of a detached Double Garage.

The Planning Application scheme also includes a foul and surface water drainage strategy which includes for a permeable road surface with surface water linked to an independent drainage system. Foul drainage is served by a foul drainage system linked to mains drainage and due to surrounding site levels. The 'Drainage Strategy Plan' is included within the Full Plan Application supporting documents.

The orientation of the proposed dwellings sets out to establish an effective and obvious relationship between dwellings, parking areas and the site itself. Communal areas between the proposed dwellings have been avoided with the private road being a shared road incorporating a turning area for refuse and emergency vehicles. The proposed dwellings will benefit from clearly defined boundaries, individual driveways and secure private rear amenity space.

Minimising overlooking of neighbouring properties was a material consideration in the development of the scheme design and the proposed dwellings have no (habitable) First Floor windows to the side elevations protecting the private amenity space of the existing properties across the site. First Floor windows are present to the front elevation facing the grounds of Heacham Junior School and to the rear, the closest neighbouring property is located circa 32 metres from the proposed dwellings. Therefore, the proposed dwellings do not present any unreasonably overlooking.

Within the site itself, vehicles can access each of the residential units and all vehicles entering the site are able to exist the site onto Cheney Hill in a forward gear. The site does not lie within a flood risk area and thus a Flood Risk Assessment has not been undertaken, however, a Flood Risk Statement does support the Planning Application.

Careful consideration of the form, use of a select palette of high quality materials, and the articulation of architectural features ensures a cohesive and appealing design is achieved and which is also responsive to the surrounding landscape.

The intention is for the scale of the proposed dwellings to be line with the scale and proportions of the existing properties on the site. The site is not level and the changes in levels offer the potential for the proposed development site to be 'sculpted', creating a scale of development considerate with the surrounding topography.'

PLANNING HISTORY

16/00375/O: Application Withdrawn: 19/04/16 - Outline Application All Matters Reserved: One new dwelling - 1 Cheney Hill Heacham King's Lynn Norfolk PE31 7BX;

RESPONSE TO CONSULTATION

Parish Council: OBJECT – previous applications for extensions to Cheney Hollow and for a single dwelling on the site have been objected to by the Heacham Parish Council so why should we support two dwellings on the same space?

Objection grounds of safety and inappropriate development; the access point is very close to where the School crossing patrol stands with possible danger to school children twice a day. Children also walk up the path on that side. Twice a day vehicles will often be parked opposite where this access is proposed creating a 'single track' or narrow roadway.

Diagonally opposite is the proposed development of 69 houses; The Cheney Hill development which already the Parish Council raised objections to on Highway Safety.

Highways Authority: NO OBJECTION – conditionally re: access, visibility splays, parking and turning etc.

CSNN: NO OBJECTION – recommend informatives be added re: control of noise during construction and demolition works and soakaways.

Environmental Quality: No comments regarding contaminated land or air quality

Natural England: No comments

Housing Enabling Officer: NO OBJECTION - if, in the opinion of the decision maker, the site is not capable of accommodating 5 nodwellings, then no affordable housing is required.

Arboricultural Officer: NO OBJECTION – subject to condition for development to be constructed in accordance with the report and plans authored by Heritage Tree Specialists LTD

REPRESENTATIONS

One third party piece of correspondence referring to the following:-

- The land to the left of the exit from Cheney Hollow was Common Land and having ascertained that there was no proven owner had it recorded as Common Land under the jurisdiction of the Secretary of State. A silver birch was planted to commemorate this and recorded in 1967.
- At a later date the driveway into Cheney Hollow was straightened and fenced off across this common land which should not have been allowed either by the Borough or any authority higher.
- Object to any development that continues to use this driveway across Head of Common and wish that Head of Common be reinstated.
- Legislation protects this common land
- The application seeks to increase the visibility splay but this will remove even more of the Head of Common.
- The small triangle of grass that has the 1967 silver birch on is not shown, further destroying common land
- The entrance to the property is just past a blind bend and incline making it a dangerous entrance. Two solutions are to reinstate the common land with either a convex mirror placed opposite the entrance which would slow vehicles coming around the bend or another entrance is built at the other end of the site.

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS09 - Housing Distribution

CS12 - Environmental Assets

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

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DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

PLANNING CONSIDERATIONS

The primary issues for consideration are:

- Principle of development
- The application
- Form and character
- Neighbour amenity
- Highway improvements
- Other matters

Principle of development

The National Planning Policy Framework (NPPF), 2012 states, at paragraph 49, that: 'Housing applications should be considered in the context of the presumption in favour of sustainable development'.

Heacham is identified as a Key Rural Service Centre in the Settlement Hierarchy of the Core Strategy. The site is within the development boundary of the adopted Site Allocations and Development Management Policies Plan September 2016 (SADMP 2016). As such the principle of new residential development is generally acceptable as long as it has regard for and is in harmony with the built characteristics of the locality and other relevant planning policies and guidance.

The application

There are two elements to this planning application; i) the change of use of the existing dwelling, Badger's Den, from a holiday let to independent dwellinghouse and ii) construction of two new dwellings.

i) Badger's Den:

This residential unit is already used as a holiday let. Planning permission was granted under planning permission 2/97/1732/CU for the use of this property as a holiday let.

The terms and conditions for the use are set out in a S106 legal agreement associated with this historic planning permission. This legal agreement states that the proposed residential unit shall not be extended or altered and that it will always remain within the same curtilage as the existing dwelling known as Cheney Hollow and never as an independent unit of accommodation.

Although the property is currently used for holiday let purposes it does have an independent vehicular access. Additionally, since the planning permission was originally approved the boundaries around the property have been moved. The unit now has its own private amenity

space, off street parking spaces and space for bins, bike storage etc. i.e. all facilities expected for an independent residential unit.

Similarly the other residential properties, Cheney Hollow and Cheney House each have their own amenity space and off-street parking facilities.

The property comprises a kitchen/living room, bedroom, bathroom and conservatory. Granting consent for this property to be used as a general C3 dwellinghouse would afford the property householder permitted development rights, but, given that the property would have its own curtilage and it is some distance from adjoining properties separated by boundary treatment and planting, this raises no amenity issues.

Due to the creation of a separate curtilage the site is already functioning in breach of some of the terms of the legal agreement. That said, the position of the boundary treatment and creation of a separate access means that the site can function independently without harm to the amenity of the occupants of the other adjoining properties. Given that each unit can operate independently without affecting the other, the original reason for imposing the restriction in 1997 is no longer apparent. It would now be difficult to sustain an objection to the use as it no longer results in a poor relationship between the two properties.

Whilst the operation of the use of this unit in breach of the terms of the legal agreement cannot be condoned, the use of this property as an independent dwellinghouse raises no significant planning policy issues and this proposed change of use is supported.

ii) New dwellings:

The proposal shows two new detached dwellings to the southern part of the site, replacing an existing garage building. Access would be via the improved access road which passes by Cheney Hollow.

Form and Character

The application site is on the south western side of Cheney Hill. The properties shown as Cheney Hollow, Cheney House, Badgers Den and Hillside on the submitted plans already exist.

The proposed new dwellings are set centrally on the site, some way back from the road. Ground levels change significantly across the site, rising from west to east, so that the floor levels of the dwellinghouses would be elevated. The houses are, however, set into the rising ground with steps up at the front and levelled patio areas to the rear of each property.

The existing buildings on site are constructed of typical local building materials, including red brick, carstone and clay pantile roofs, and are of simple cottage style design with gabled and lean-to projections. The proposed new dwellings also follow a traditional design with gabled frontages, incorporating the use of carstone panelling with red brick and pantile roofs. The DAS refers to the proposed development seeking to form a cohesive and appealing design through appropriate layout, scale and the use of a palette of high quality materials.

This application has been submitted following pre-application advice where three new dwellings were proposed. At pre-application stage concern was raised to the density of three dwellings on the site and the amount of new build across the site. In response this submitted scheme has reduced the number to two dwellings.

In planning policy terms Core Strategy Policy CS08 infers that new development should be of high quality design and respond to the context and character of the locality. Additionally development must protect and enhance the amenity of the wider environment including its heritage and cultural value and the scale, height, massing, materials and layout of a development should respond sensitively and sympathetically to the local setting and pattern of adjacent streets including spaces between buildings through high quality design and use of materials (Policy DM15).

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

In this case the proposal is much more in keeping with surrounding development and the units also take reference from surrounding properties in terms of design (roof formation, orientation, scale etc.) and the use of traditional building materials. Now the amount of spacing around each of the proposed dwellings is more in keeping and is acceptable in terms of massing and layout.

The units will be elevated in order to take into account the rising ground levels but they are of appropriate design and materials so when viewed they will be in keeping and of appropriate design.

Accordingly it is considered that the proposal is acceptable in policy terms.

Neighbour amenity:

The ground levels change significantly across the site and attention has been given to the relationships with other existing development as well as between the proposed new properties.

Four of the neighbouring properties which adjoin the new dwellings are within the ownership of the applicant. The proposed new dwellings are between approximately 22m and 26m to the south from Cheney Hollow, Cheney House and Badger's Den and approximately 14m to the north of Hillside.

No. 5 Cheney Hill lies to the east of the proposed new dwellings. The rear garden to Plot 1 is approximately 28m long and Plot 2 is approximately 16m. The land levels at this point rise from west to east and No. 5 Cheney Hill is then sited at a lower level with mature trees to its boundary. Separation distances between Plot 2 (the nearer of the two new dwellings) and No. 5 are approximately 30m.

The gardens of properties on Fenside adjoin the rear garden of Plot 1. These properties have long rear gardens in excess of 30m. Due to the position and orientation of the proposed new dwellings within the site the impact upon the amenity of the occupants of these existing dwellings will be limited.

The relationship between the dwellings as proposed and neighbouring properties has been examined and the impact upon the amenity of the occupants of these properties has been assessed. Consideration has been given to overlooking, overshadowing and the dwellings being overbearing. It is not considered there will be a significantly detrimental impact upon the amenity of the occupants of the adjoining properties in terms of overlooking, being overshadowed or the proposed dwellings being over bearing, as a result of this proposal.

Highway improvements:

The Highways Authority raises no objection to the proposal which include improvements to the existing access at the junction with Cheney Hill. The proposed works will improve visibility splays and remove the existing oblique views at the access.

The Parish Council objection relates principally to highway safety issues. They also refer to previous applications for new housing on the site which were not supported. However, previous applications did not incorporate any highway improvement works so objection was raised to the increased use of a substandard access.

This current application differs from earlier schemes as it proposes improvements which address the substandard access and visibility arrangements, reducing the three existing points of access down to a single shared point of access with improved levels of visibility. The proposal will bring about benefits for the existing road users and, subject to appropriate planning conditions, there are no outstanding highway safety issues and no objection from the Highways Authority.

During the course of the planning application it came to light that land at the junction with Cheney Hill is registered as common land. Common land is land owned by one or more persons, where other people known as 'commoners' are entitled to use the land or take resources from it. It is protected by legislation outside of the Planning Acts (The Commons Act 2006). Accordingly should planning permission be forthcoming this will not override other legislation that affects this parcel of land.

Certain types of works on common land can be carried out without consent because they are exempt. However other works will require consent under the Commons Act and it would be necessary for the applicant to obtain any necessary consent from the Planning Inspectorate on behalf of the Secretary of State for Environment, Food and Rural Affairs in addition to any planning permission.

Not only are physical changes proposed to the access, which is on common land, visibility splays to the north run over this land. However, given that permission is required for most physical works on common land it is unlikely that these visibility splays would be impeded in the long term and the Highways Authority do not raise this as an issue.

The applicant is now aware of this matter and the need to obtain different types of consent prior to the commencement of any works. However, it is recommended that an informative be added to the decision notice reiterating this matter, if permission is forthcoming. Further information on this is provided earlier in the report.

Other matters:

There are some trees on the site and a Tree Protection Plan has been provided. The Arboricultural Officer raises no objection subject to appropriate conditions.

Although a significant part of the site is grassed, it is used as garden land and there are no implications for nature conservation or protected species in this case.

The site lies within 2km of a SSSI. However, the proposed development of this approved plot would not have a significant adverse effect on the features for which the SSSI is designated.

CONCLUSION:

In conclusion, the proposed use of the existing property, Badger's Den without holiday let restrictions raises no planning policy issues.

The detailed plans for the two new dwellings show that the proposal will be in keeping with the building characteristics of the area. The proposal can be achieved without material harm to the amenity of occupants of existing adjoining properties as well as residents of the proposed new dwellings. The application incorporates traditionally used local materials which can be seen throughout the village of Heacham to give the design a context. The design of the proposal promotes local distinctiveness.

The proposed improvements at the junction of the access road with Cheney Hill will bring about benefits to existing and proposed new road users and raise no highway safety concerns. However, these works will affect common land and it will be necessary for the applicant to obtain any necessary consent from the Planning Inspectorate on behalf of the Secretary of State before any works are undertaken. This is separate to any planning permission, where one permission does not override the other.

The proposal complies with Core Strategy Policies CS01, CS02, CS06, CS08, CS09 and CS12, Policies DM1, DM15 and DM17 and national advice within the NPPF. Accordingly it is recommended that the application be approved subject to appropriate conditions and with an informative referring to the need to obtain the necessary consent for works on common land.

RECOMMENDATION:

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

- 1 Condition: The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 1 Reason: To comply with Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition: The development hereby permitted shall be carried out using only the following approved plans:
 - Drawing No. 02888-PA01 Rev – Notes and Location Plan
 - Drawing No. 02888-PA04 Rev – Proposed Floor Plans
 - Drawing No. 02888-PA05 Rev - Proposed Elevations Plot 1
 - Drawing No. 02888-PA06 Rev - Proposed Elevations Plot 2
 - Drawing No. 02888-PA07 Rev – Proposed Partial Site Plan
 - Drawing No. 02888-PA08 Rev - Proposed Site Plan showing Roof Plan
 - Drawing No. 02888-PA09 Rev A - Proposed Site Plan showing Site Cal Outs
 - Drawing No. 02888-PA10 Rev - Proposed Site Plan showing Plot Areas
- 2 Reason: For the avoidance of doubt and in the interests of proper planning.
- 3 Condition: No development shall take place on any external surface of the development hereby permitted until samples of the materials to be used in the construction of the external surfaces of the building(s) have been submitted to and approved in writing by

the Local Planning Authority. The development shall be carried out in accordance with the approved details.

- 3 Reason: To ensure a satisfactory external appearance and grouping of materials in accordance with the principles of the NPPF.
- 4 Condition: Prior to the first occupation of the development hereby permitted the vehicular access shall be provided and thereafter retained at the position shown on the approved plan (drawing number 02888.PA09/rev A) in accordance with the highway specification (Dwg. No. TRAD1) attached. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway
- 4 Reason: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway.
- 5 Condition: Vehicular and pedestrian (and cyclist) access to and egress from the adjoining highway shall be limited to the access shown on drawing No 02888.PA09/rev A only. Any other access(es) or egresses shall be permanently closed, and the footway / highway verge shall be reinstated in accordance with a detailed scheme to be agreed with the Local Planning Authority, concurrently with the bringing into use of the new access.
- 5 Reason: In the interests of highway safety.
- 6 Condition: The gradient of the vehicular access shall not exceed 1:12 for the first 5 metres into the site as measured from the near channel edge of the adjacent carriageway.
- 6 Reason: In the interests of the safety of persons using the access and users of the highway.
- 7 Condition: Notwithstanding the provision of Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking, amending or re-enacting that Order) no gates, bollard, chain or other means of obstruction shall be erected across the approved access unless details have first been submitted to and approved in writing by the Local Planning Authority.
- 7 Reason: In the interests of highway safety.
- 8 Condition: Prior to the first occupation of the development hereby permitted a visibility splay shall be provided in full accordance with the details indicated on the approved plan. The splay shall thereafter be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the adjacent highway carriageway.
- 8 Reason: In the interests of highway safety.
- 9 Condition: Prior to the first occupation of the development hereby permitted the proposed access, on-site car parking and turning area shall be laid out, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.
- 9 Reason: To ensure the permanent availability of the parking / manoeuvring area, in the interests of highway safety.

- 10 Condition: No development or other operations shall commence on site until the existing trees and/or hedgerows to be retained have been protected in accordance with the Arboricultural Implications & Tree Protection Plan by Heritage Tree Specialists LTD submitted to and approved in writing by the Local Planning Authority. The fencing shall be retained intact for the full duration of the development until all equipment, materials and surplus materials have been removed from the site. If the fencing is damaged all operations shall cease until it is repaired in accordance with the approved details. Nothing shall be stored or placed in any fenced area in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made without the written approval of the Local Planning Authority.
- 10 Reason: To ensure that existing trees and hedgerows are properly protected in accordance with the NPPF.