

AGENDA ITEM No: 8/2(b)

Parish:	Leziate	
Proposal:	Outline application for the development of 7 dwellings & garages, and provision of replacement clubhouse, following demolition of existing structures	
Location:	Leziate Park Country Club Brow of The Hill Leziate Norfolk	
Applicant:	Mr N Williamson	
Case No:	18/00053/O (Outline Application)	
Case Officer:	Mrs H Morris	Date for Determination: 28 March 2018 Extension of Time Expiry Date: 11 October 2019

Reason for Referral to Planning Committee – The application raises issues of wider concern.

Neighbourhood Plan: No

Case Summary

The application seeks outline planning permission for the construction of 7 no. dwellings and garages and provision of a replacement clubhouse following demolition of the existing structures remaining on site. All matters (access, layout, scale, appearance and landscaping) are reserved for later consideration. Originally the application was submitted for 7 no. dwellings only but this was later amended to include provision of a replacement clubhouse facility. A revised indicative layout plan was received on 11th September 2019 (drawing no. 1977-03C).

The application site lies on the southern side of Brow of the Hill, Leziate and comprises the former Leziate Lake Country Club which has remained unused since its closure in March 2016. In July 2018 it was subject to an intense fire which destroyed much of the building with the majority of the structure since removed from site for health and safety reasons.

Leziate Lake lies to the south and east of the site and existing residential properties on Brow of the Hill lie to the west.

Public Footpath Leziate FP8 runs along the site frontage and Restricted Byway Leziate RB13 runs along the western boundary. There are also a number of mature trees on the site, some of which are covered by Tree Preservation Orders.

Key Issues

The key issues identified in the consideration of this application are as follows:

- Principle of development;
- Form and character;
- Neighbour amenity;
- Highway safety;

- Public Rights of Way (PROW);
- Trees;
- Ecology;
- Affordable housing; and
- Other considerations.

Recommendation

A. APPROVE subject to conditions and the satisfactory completion of a S106 Agreement to secure affordable housing and the replacement clubhouse;

B. In the event that the S106 Agreement is not completed within 4 months of the date of this Committee meeting, the application shall be **REFUSED** due to the failure to secure affordable housing and the replacement clubhouse.

THE APPLICATION

The application seeks outline planning permission for the construction of 7 no. dwellings and garages and provision of a replacement clubhouse following demolition of the existing structures remaining on site. All matters (access, layout, scale, appearance and landscaping) are reserved for later consideration. Originally the application was submitted for 7 no. dwellings only but this was later amended to include provision of a replacement clubhouse facility. A revised indicative layout plan was received on 11th September 2019 (drawing no. 1977-03C).

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Leziate Lake lies to the south and east of the site and existing residential properties on Brow of the Hill lie to the west. A new clubhouse is proposed on the lakes edge, accessed along an existing track.

Public Footpath Leziate FP8 runs along the site frontage and Restricted Byway Leziate RB13 runs along the western boundary. There are also a number of mature trees on the site, some of which are covered by Tree Preservation Orders.

SUPPORTING CASE

The proposal at the former Leziate Sailing Club includes the construction of 7 dwellings and a new community facility by way of a new sailing club building, and the re-opening of the lake for member and club use, following the demolition of the remaining structures on site including a tennis court and steel frame structure which used to be the sailing club building.

The former club building was subject to a fire in July 2018, which left the site in an un-safe and un-sightly state, which subsequently attracted further anti-social behaviour on the site, and neighbours of the site and Leziate residents made their feelings of concern clear.

The agent and applicant attended a Leziate Parish Council meeting early 2019 to discuss the application with the Parish Council and residents –the meeting was well attended, and we feel it was an extremely beneficial meeting for the residents and parish, as their concerns

and questions were addressed, and the clubs use and operations plans discussed. It was made clear by residents and the Parish that the site needed to be made safe and anti-social behaviour be deferred from this area of Leziate.

The Parish and residents agreed unanimously that this proposal of a small residential development and re-formed sailing club would be of great benefit to the community; not only due to the new public facilities and re-opening of the lake, but by developing the application site the area would be cleared removing the 'eye-sore' which is currently in situ, and beautiful homes to match the form and character of Leziate would be constructed.

A meeting took place on site which was attended by the case officer, tree officer, tree consultant and agent to discuss potential impact on trees. The proposed indicative site layout was then amended following this meeting to incorporate further trees, thus meaning less trees are proposed for removal.

Sincere efforts have been made by both the applicant and agent to find a feasible and beneficial layout and use for the site. Through the construction of 7 dwellings, and the reforming and re-opening of Leziate Sailing Club and its lake, the site will become a useable, safe and attractive site and facility for the residents of Leziate and surrounding areas, and residents of the proposed dwellings; whilst also providing a permanent presence on site to defer anti-social behaviour.

PLANNING HISTORY

14/00100/F: Application Withdrawn: 14/03/14 - Removal of condition 5 of planning permission 2/86/0412/CU/F/BR

07/00548/FM: Application Permitted (Committee): 06/06/07 - Construction of 24 bedroomed hotel

06/01686/FM: Application Permitted (Committee): 08/11/06 - Construction of new hotel

05/02491/FM: Application Refused (Delegated): 01/03/06 - Construction of new hotel

2/03/1142/F: Application Permitted: 08/10/03 - Restaurant and accommodation extension

2/03/0125/F: Application Permitted: 11/03/03 - Kitchen extension

2/01/1395/F: Application Permitted: 13/11/2001 - Retention of conservatory extension

2/99/1392/O: Application Withdrawn: 13/06/02 - Sites for construction of managers dwelling 10 holiday log cabins and new clubhouse (revised proposal)

2/97/1683/F: Application Withdrawn: 03/02/98 - Retention of marquee for year round use ancillary to clubhouse

2/96/1248/F: Application Permitted: 17/12/96 - Erection of marquee for year round use ancillary to clubhouse

RESPONSE TO CONSULTATION

Parish Council: NO OBJECTION.

We held a meeting and the limited number of local residents that were present held the view they would prefer the development because the burnt out site is an eyesore and has become a site for anti-social behaviour with the Police often called to the site.

The council is aware that this is outside the village envelope/boundary and contrary to NPPF and the local development plan and are mindful that this could set an unwanted precedent to further development on recreation and green spaces.

The owner of the site, at the meeting, did commit to accept a permanent restriction on any further development for the whole of the original golf club site and if approved the application would be required, as in the original club, to have no motor boats.

We would like to see the S106/CIL contributions made to support the various commitments.

Highways Authority: OBJECT for the following reason:

Having examined the information submitted with the application I believe that ultimately accesses for the proposal could be safe and parking and turning for vehicles could accord with the parking standards for Norfolk.

The proposed development site is however remote from town centre shopping; health provision; Schooling and has restricted employment opportunities with limited scope for improving access by foot and public transport. The distance from service centre provision precludes any realistic opportunity of encouraging a modal shift away from the private car towards public transport.

The National Planning Policy Framework (NPPF) not only supports the need for “safe and suitable access...for all people”, but also encourages the importance of being able to make everyday journeys without reliance on a motor car. Sustainable transport policies are also provided at a local level through Norfolk’s 3rd local transport plan Connecting Norfolk – Norfolk’s Transport Plan for 2026 (see Appendix F). Policy 5 of this document states “New development should be well located and connected to existing facilities so as to minimise the need to travel and reduce reliance on the private car or the need for new infrastructure”.

It is the view of the Highway Authority that the proposed development would conflict with the aims of sustainable development in transport terms and I therefore recommend the application is refused for the following reason:

The proposal is remote from local service centre provision conflicting with the aims of transport sustainable development, the need to minimise travel, the ability to encourage walking, cycling, use of public transport and reduce the reliance on the private car as represented in national and local policy. Contrary to the National Planning Policy Framework and Policy 5 of Norfolk’s 3rd Local Transport Plan, entitled Connecting Norfolk.

NCC Public Rights of Way: NO OBJECTION. We have no objection in principle to the application but would highlight that the Public Rights of Way, known as Leziat Footpath 8 and Restricted Byway 13 are to be crossed by the proposed driveway. We would therefore recommend that signage is included to alleviate any possible conflict between traffic and users of the PRowS.

We note that the boundary adjacent to the footpath is an ancient wire fence; any changes to this feature should not encroach towards the footpath. If the new boundary treatment is higher or more substantial it should be set further away from the footpath to avoid altering the ‘feel’ of the current Public Right of Way.

We would recommend that the applicant obtain a plan showing the legal alignment and extent of the two Public Rights of Way from the Highway Boundary team.

The full legal extent of these Public Rights of Way must remain open and accessible for the duration of the development and any subsequent occupation.

Natural England: No comments to make.

Environment Agency: No comments to make.

Open Spaces Society: OBJECT for the following reasons:

Revised Proposal - I see nothing from the amended documents that would allay the concerns about the proposal, as originally expressed in our earlier letter.

The proposed construction of a residential development here would detrimentally alter public path users' perception and enjoyment of the countryside, as outlined previously.

With regard to the public rights of way, I contend that it is not sufficient merely to state that these ways – actually a public path, Leziate Footpath No. 8, and a public carriageway, Leziate Restricted Byway No. 11 - “shall remain in situ and open to the public, remaining unaffected by the proposal”, as the applicants claim in their Design and Access Statement.

For one thing, as we previously pointed out, the utilisation of the “existing access” by traffic associated with the new residential development would necessarily result in an increase in traffic crossing the public right of way, with the potential for conflict between that traffic and public path users.

Also, I read that the Norfolk County Council's “Trails Officer (Planning and Development)”, writing on 16th July 2018, notes that “[t]he boundary adjacent to the footpath is an ancient wire fence, any changes to this feature should not encroach towards the footpath. If the new boundary treatment is higher or more substantial it should be set further away from the footpath to avoid altering the ‘feel’ of the current Public Right of Way.”

Whilst I agree that “encroachment towards the footpath”, and alteration of its “feel”, would be undesirable, I am concerned that this officer, who is writing on behalf of the highway and surveying authority for the area, offers up no information as to the legal widths of the public rights of way concerned. It is, at the end of the day, the legal width of a public right of way that gives legal protection against encroachment onto that width. Therefore the width would need to be sufficient to provide for the appropriate positioning of the boundary treatment; positioning a fence or other structure within the legal width of the path would be illegal, and easily enforceable against by the highway authority.

We would urge that it is absolutely vital that the legal width is determined.

In our original letter I expressed that the overall legal width of the footpath ought to be not less than 3 metres. Assuming that the applicant is, or has access to, the owner of the soil of the land, then we note that it would be perfectly possible for the applicant to secure the dedication of any additional width as may be necessary to result in the overall required width.

Indeed I note, from HM Land Registry (consulted on June 14th 2019), that the registered ownership of the land associated with the Leziate Park Country Club extends over a considerably greater area than that indicated as being the perimeter of the application site

(as indicated by red lines on the plans), and includes all of the land crossed by both Leziate Footpath No. 8, as well as much of Leziate Restricted Byway No. 11.

At present, Leziate Restricted Byway No. 11 is recorded as ending on Leziate Footpath No. 8, meaning that the Byway is dead-ended, insofar as recorded public rights for anything other than pedestrians is concerned (i.e. dead ended for the equestrians, pedal cyclists and non-motorised vehicles entitled to use a Restricted Byway). The dedication of additional Restricted Byway rights over the route of the existing Leziate Footpath No. 8 would bring about considerable public benefit, inasmuch as a through-route would be created for equestrians, pedal cyclists and non-motorised vehicles, extending the existing Restricted Byway No. 11 beyond its existing recorded termination, instead to connect with both the C55 road, and also with the B1145 road at a point directly opposite Leziate Restricted Byway No. 12. This extension could potentially result in a considerable improvement to the public right-of-way network for higher rights users in the area.

Without prejudice to our objections, I therefore urge that, should the local planning authority be minded to approve the planning application, a condition be attached requiring the owner of the soil to dedicate Restricted Byway rights over Leziate Footpath No. 8, in the interests of the amenities of the general public, as some measure of compensation against the otherwise detrimental effects of the proposal on the amenities of the public. Such dedication could be achieved through a creation agreement drawn up between the owner of the soil and, either, the borough council or the county council, under Section 25 of the Highways Act 1980.

BCKLWN Strategic Housing: NO OBJECTION subject to a S106 agreement being completed to secure an affordable housing contribution.

The site area and number of dwellings proposed trigger the thresholds of the Council's affordable housing policy as per CS09 of the Council's adopted Core Strategy.

At present a 20% provision is required on sites capable of accommodating 5 or more dwellings and/or 0.165 in Leziate. The affordable housing provision is then further split into 70% of the affordable homes being made available for rent and the other 30% for shared ownership or any other intermediate product that meets the intermediate definition within NPPF, meets an identified need in the Borough and is agreed by the Council. In this instance 1 unit for affordable rent would be required.

However, NPPF states that affordable housing should not be sought on developments of fewer than 10 dwellings and/or 0.5ha other than in designated rural areas. On sites on 6-9 dwellings and less than 0.5ha, a financial contribution based on £60,000 per equivalent whole affordable dwelling will be sought.

As this site exceeds 0.5ha, CS09 applies. However as there are vacant buildings on site which are to be demolished as part of the development, these are eligible for a vacant building credit.

The contribution will depend on the floorspace of the new units which will be confirmed at the reserved matters stage. The formula will be as per below;

$$\left(\frac{\text{Proposed GIA of new development} - \text{GIA of existing of vacant building (1027sqm)}}{\text{Proposed new development GIA/Number of dwellings}} \right) \times 20\% = \text{Contribution}$$

If the contribution is greater than 1 unit, it will be an onsite rental unit plus financial for the fraction (equivalent to £60k for whole dwelling). If less than 1 unit, it should be a financial contribution also based on £60k per equivalent whole affordable dwelling.

It is important for the applicant to note that we operate a dynamic approach to viability whereby the affordable housing thresholds and percentages are reviewed on an annual basis and informed by the following factors;

- Market Land Values
- House Prices
- Level of contribution sought overall
- Index of Build Costs

However any S.106 agreement signed before the review will provide the prevailing affordable housing percentage at the time of determining the application.

The affordable units must be transferred to a Registered Provider of Affordable Housing agreed by the Council at a price that requires no form of public subsidy.

BCKLWN Environmental Health & Housing – Environmental Quality: NO OBJECTION subject to condition.

BCKLWN Environmental Health & Housing – CSNN: NO OBJECTION subject to foul and surface water drainage condition.

BCKLWN Tree Officer: NO OBJECTION subject to condition.

REPRESENTATIONS

5 letters of representation (4 supporting and 1 objection) have been received in relation to the revised proposals. Their comments can be summarised as follow:

Supporting (4 letters)

- This would make the lake a safer environment and help to stop the antisocial behaviour that goes on around the lake at the moment.
- The Sailing club would be a great asset to Leziate as the original club once was.
- After attending the Parish meeting I was pleased that from what I understood the points below were agreed: the Lake would still be open to the public; the Sailing club would be members only and left to the community to organise and run; that after the 7 proposed houses are built no other buildings would ever be built around the lake and this would be in writing and part of the approval; and an area of land would be donated to the local Ashwicken School.
- As a regular long distance swimmer at the lake throughout the year my opinion is that the proposed development would do nothing but improve the area; the persistent anti-social behaviour would be curtailed and possibly controlled; lives of immediate local residents would no longer be blighted by illegal parking, late night noise, the risk of fire and the abuse, litter and damage.
- The clubhouse will be welcomed by all.
- Formalising the internal footpath will negate all the confusion and animosity currently causing grief to so many people.
- Thought will need to be put into use of land not to be developed as it is abused regularly at present.
- The sluice which drains the lake and keeps it at a specific level has been worked on by several volunteers and both I and one other clean it out regularly to keep it clear. It seems to be working to specification at present.
- I approve of the new plans wholeheartedly and look forward to work starting.

- The site needs developing and the proposed design will add to the character of the village entrance and I look forward to its commencement.
- As the only person currently sailing at Leziate lake, I would like to support the current modified proposal, particularly with respect to the provision of replacement clubhouse, the access, and the updating of the rights of way.
- I am pleased to see that 'The clubhouse will provide a number of facilities including changing rooms, toilets, stores, a space to eat and drink and a facility everyone can use.' However, the new clubhouse will be in an area that was previously used as an extensive dinghy park. Car parking was also mainly elsewhere, so there will be a lot of pressure on space. Realistically however, some other sailing clubs have a restricted area available, but still manage. One advantage will be that everything will be close together and easily supervised.
- The new housing area will be a significant distance away from the new clubhouse, and is likely to actually provide enhanced security for the area as a whole.
- Leziate lake is an ideal, safe environment to learn to sail, and was very popular with families. Like many other previous sailors (as well as many new ones), I cannot wait for Leziate to become a local resource which can be used once again.

Objection (1 letter)

- The Title Register (Title number NK228309) of the Leziate Park site land is subject to certain restrictive covenants that were put in place when the site was originally bought by Ian Williamson of East Anglian Leisure Limited on 19 January 1999. Rights were originally reserved through the Conveyance of the land on 29 April 1974 in that the areas of the site edged and numbered 1 and 2 in blue on the filed plan and other land (i.e. the whole site) permits the right for any person to pass over and along the tracks or roads shown by the dotted lines on the said plan. Any development on the site as proposed that seeks to apportion any parts of the site to housing will remove the permitted access rights to that area. According to the restrictive covenants attached to the land this is not permitted.
- The tracks referred to in the Covenants on the title deed (in which the landowner was obliged to permit the right for any person to pass over and along the tracks or roads shown by the dotted lines on the said plan) are not and never were public footpaths that would appear in the definitive map. Nevertheless, they are paths over which the Landowner has covenanted "the right for any person to pass over and along" at the time they bought the land. These paths and tracks arose from the original landscaping and access plan that formed part of the Section 52 Agreement between British Industrial Sand and NCC, that originally permitted the extraction of sand from the site. The obligations under the S52 Agreement landscaping and aftercare thus became bound up in the Land Registry Covenants obligations for the purchaser of the Leziate site when it was sold in 1999. Copies of the S52 are held by the Land Charges Team at BCKLWN and the NCC Planning Dept in County Hall. The Planning Committee should review these when determining the application 18/00053/0 to ensure that the obligations of previous agreements etc. are not forgotten or inadvertently overlooked.
- At the public meeting on Tuesday 25th June, the developer confirmed that he was withdrawing the previously confirmed access pathways around the lake etc. proposed in 2018 and would now not be included as part of the plans for the development, which was very disappointing. This still seems to go against his obligations to "permit the right for any person to pass over and along the tracks or roads shown by the dotted lines on the said plan" as set out in the Land Registry covenants for the site. For this reason, I continue to object to the proposal as currently formulated.
- Any planning consent for the development site would necessarily have to ensure that the route of FP8 is preserved.

- Leziate is classified in the SADMPP as a Smaller Village or Hamlet. As such, it has no allocation of housing required to contribute to the BCKLWN overall housing strategy, which has been noted as meeting its targets for the foreseeable future.
- Policy DM 3 specifically states that new development in Smaller Villages and Hamlets will be limited only to that suitable in rural areas. The proposed development does not meet any of the criteria.
- There are no specified identified needs for this development and it is not linked in any way to rural employment or other local enterprise.
- The proposed development is not an infill development of a small gap within an otherwise continuously built up frontage.
- The proposed new construction would further extend the extant development boundary of the village northwards towards the B1145.
- The proposed development of 7 houses is a significant additional development within a small village akin to a housing estate. It is not appropriate to the scale and character of any group of nearby buildings which are generally individual sized and styles built on larger plots of land set back from the road.
- The proposed development will not fill a gap which provides a positive contribution to the street scene. It will only contribute to urban sprawl into undeveloped countryside.
- The proposed development clearly does not meet any of the BCKLWN strategy for housing in this area and so should be rejected.
- The terms and conditions of the S52 Agreement covering the long-term use and after-care of the Leziate Park site had specifically designated this as a lake area for waterborne recreation. Consequently, on this site, on completion of mineral extraction, all machinery was removed before the quarry was allowed to flood to ensure the lake is safe for sailing, canoeing, swimming etc. It has been used as such ever since the mineral workings ceased.
- This lake provides a unique local resource for sheltered and safe sailing / canoeing / swimming that is almost always available at any times of the year.
- If the proposed development is permitted, it should enshrine the provision of a new club building / changing facility as a firm undertaking.
- The Planning Committee may think it appropriate to include within any planning conditions a requirement for a management plan for the lake area, clubhouse and changing facility to be proposed by the developer for agreement by the BCKLWN in consultation with Leziate Parish Council, local residents and potential users.
- It would appear that the proposed development is not permissible as a result of the conditions and restrictions attached to the extant S52 Agreements covering the site unless they are subject to a separate Agreement superceding the existing agreements, arrived at through a separate NCC Minerals Planning process.

Original proposal: **23** representations (**15** objections **6** supporting and **2** neutral) were received which can be summarised as follows:

- The footpath map submitted by Mr. Williamson predates not only the creation of the lake, but also the excavation of the site.
- The proposed 'changing/shower/toilet/ and storage facilities' is totally inadequate for a viable 'membership/guest' club. It must have some social and catering facilities to be a successful clubhouse.
- Will the new membership club have to provide income to cover the maintenance costs of the whole site?
- The proposal for 10 holiday lodges was considered to be beneficial to the club by attracting people who share with many locals the love of the lake area, or watersports, whilst defraying some of the costs. The hotel, similarly, could have been beneficial to the social facilities of the lake area. Why they were not proceeded with?

- Mr. Williamson 'understands that during school run times, East Winch Road can become quite congested and even quite dangerous'. If this is the situation, why is the offer conditional upon planning permission being granted?
- I would support any proposal that recreates the successful club that operated for many years. The Hotel and/or Lodges might have provided significant income streams. A private housing estate would not.
- I would ask for clarification of the proposed site and access conditions of the car park that would be given to Ashwick Primary School.
- If permission is granted, a piece of land adjacent to the school will be donated to the school, which hopefully shall eliminate future parking issues.
- I am supportive of the development, the current proposals are in keeping with the Village and the existing building is an eyesore.
- I would now support the proposed development, on the basis of further information as to the nature of the new club house, access, and amenities.
- A new clubhouse by the lake would have a significantly reduced capacity and role compared with the previous centre. However, it could now focus more on water sports (sailing, swimming, and other related activities), and I am sure it would be a very popular centre for this, and act as a local and general amenity.
- There are still concerns about the exact nature of the proposed clubhouse (leisure building) - particularly its size, structure and location. The arrangements for its use would also need to be specified - for example the cost to users (the old clubhouse was run on a rental basis and run by a manager), as well as the arrangements for payments for services (water, power, sewage etc.).
- The lake drainage also remains fragile and needs repair. Finally, a plan needs to be set up to ensure security for any new Leziat Lake Club.
- Although the original clubhouse was extremely successful, it is perhaps now important to focus on how the site could be used for the community once again.
- The East Winch Road side of the lake is abused by people who ignore the Section 52 Order completely, knowing it will not be enforced, causing damage, often being anti-social, drunk and under the influence of drugs; there have been cases of women and men being verbally abused, common assault, ABH and an attempted robbery. The Police are unable to have any impact on this behaviour. Members of the public who try to intervene are verbally abused and have been physically abused.
- Building houses on the land indicated will, in my opinion, restrict the options of those wishing to abuse the Section 52 Order. The building of a formal recreation facility near to the lake with its implied more structured use and management of the amenity will, hopefully, result in safe use of the lake, protection for the wildlife and a safe environment for those taking advantage of the Section 52 Order.
- It is important that the land is put to good use and the housing development which is being proposed is very well considered, and should not stop people being able to enjoy the natural surroundings.
- It will provide much needed housing for people living in the area and those wanting to move to Norfolk.
- The area is designated by the BCKLWN as a 'Small Village / Hamlet.' Core Strategy 2011 and it states only very limited development would be permitted. Furthermore DM3 adds any application would be limited to specific identified needs and would have to provide significant benefit to the local community. The proposal does not satisfy these criteria as it almost certainly would prevent any further recreational development of the lake and its surrounds.
- It would appear that the proposed development would compromise policy objectives and specifically the 'Public Rights of Way' as set out in the 1984 Agreement.
- This was a thriving leisure and recreation site which has been allowed to fall into a state of disrepair.

- To build houses on the clubhouse site is such a bad idea for both the local community and the wider areas who could use the lake and clubhouse for water sports and other recreational activities.
- We must ensure we keep areas of beauty such as this which are open to all allowing access and availability for all to enjoy.
- Loss of public access and recreation, as stipulated in Section 52 agreement.
- A new large housing development is not suitable in a hamlet like Leziate.
- Whilst a few holiday chalets located around the lake might just be acceptable, this proposal would close off the lake in perpetuity.
- The proposed houses and gardens completely occupy the main car park. There is no comparable parking area in the vicinity so people outside walking distance will be unable to use the site. The entrance to the lakeside roadway will become someone's private garden, so all watersport activities will become impossible because they all need transport.
- There is no other vehicular entrance to the lake.
- It may, or may not, be possible to run the site as a profitable concern - but if not, its early years demonstrated that it could operate extremely successfully as a Members' Club. Perhaps the long list of objectors could provide the nucleus?
- Leziate sailing club was the main reason we bought our house as the land surrounding it was available for public access.
- The dereliction and subsequent vandalism of this much-loved and fondly remembered resource is a sad sight, and to have it lost forever to a housing development would be a grave mistake and simply heartbreaking. It is essential that the public access, (as I understand is stipulated by the Section 52 agreement with Sibelco, formerly BIS), to this wonderful part of our English countryside be maintained, not just for our generation but for the next.
- The access road down to the lake is untenable due to frequent flooding. However, on examination of the drain, it was found to be broken, full of debris and appears to have been filled with concrete
- Loss of local employment. If the site were to have a car park and/or clubhouse there could be employment for a manager or warden or other staff.

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS09 - Housing Distribution

CS10 - The Economy

CS11 - Transport

CS12 - Environmental Assets

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM2 – Development Boundaries

DM3 - Development in the Smaller Villages and Hamlets

DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

DM9 - Community Facilities

NATIONAL GUIDANCE

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

PLANNING CONSIDERATIONS

The key issues identified in the consideration of this application are as follows:

- Principle of development;
- Form and character;
- Neighbour amenity;
- Highway safety;
- Public Rights of Way (PROW);
- Trees;
- Ecology;
- Affordable housing; and
- Other considerations.

Principle of Development

The application site lies within Leziate which is defined as a Smaller Village and Hamlet under Policy CS02 of the Council's Core Strategy (2011). These small settlements do not have a development boundary and are therefore treated as countryside where new development will be more restricted and will be limited to that suitable in rural areas as set out under Policy DM3 of the Site Allocations and Development Management Policies Plan (2016). This includes: small scale employment uses (under Policy CS10); community facilities (under Policy CS13); smaller scale tourism facilities (under Policy CS10); conversions of existing buildings (under Policy CS06); rural exceptions affordable housing; and development to meet specific identified local need , including housing to support the operation of rural businesses (under Policies CS01 and CS06).

In terms of housing, Policy DM3 allows for some small scale development adjacent to existing development. Normally this would comprise the sensitive infilling of small gaps within an otherwise continuously built up frontage, however in exceptional circumstances the development of small groups of dwellings in Smaller Villages and Hamlets may be considered appropriate where the development is of a particularly high quality and would provide significant benefits to the local community.

In this case the site could not be classed as a 'small gap within an otherwise continuously built up frontage'. However, in accordance with Policy DM3 the proposed development does comprise a small group of dwellings and would include the provision of a replacement clubhouse facility which would be of benefit to the local community. Given the proposal is outline only with all matters reserved it would also be possible to ensure a high quality development is achieved at reserved matters stage as required by Policy DM3, should outline planning permission be granted.

A further community benefit is that the proposed development would bring back into use a derelict problem site which is visually unattractive and is regularly subject to anti-social behaviour. This is a significant benefit of the scheme and is a material consideration; along with the fact the site comprises previously developed (brownfield) land, the effective use of which is encouraged by section 11 of the NPPF (2019).

Furthermore, para 78 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby.

Leziate is a rural community with limited services and facilities. However, its scattered form is similar to that of neighbouring Ashwicken, which lies within Leziate Parish and benefits from a primary school, church and local bus service. The proposed development would help support these nearby facilities, enhance the vitality of Leziate, as well as nearby Ashwicken, and generally support the local economy.

Taking into account all the above considerations, it is considered on balance there are exceptional circumstances in this case to justify the provision of a small group of dwellings under Policy DM3 given that the proposal includes a replacement clubhouse facility and the overall redevelopment of the site would bring significant benefits to the local community. In order to ensure the replacement clubhouse is developed should planning permission be granted, a clause has been inserted within the Section 106 agreement which states that none of the dwellings shall be occupied unless and until the replacement clubhouse has been constructed and has opened for use.

Form and Character

Whilst this application seeks outline planning permission only with all matters reserved, a revised indicative site layout plan (drawing no. 1977.03C) has been submitted in order to demonstrate that 7 no. detached dwellings could be satisfactorily accommodated on the site together with a replacement clubhouse facility adjacent to the lake.

The established residential form and character of the area comprises substantial dwellings situated within generous grounds therefore the proposed development seeks to replicate this whilst being sympathetic to the large number of mature trees across the site. Overall it is considered that the indicative layout plan demonstrates that a suitable development could be achieved which would be in keeping with the character and appearance of the area.

Neighbour Amenities

The nearest residential properties lie to the south west of the site beyond Restricted Byway Leziate RB13. The submitted indicative layout plan shows a minimum separation distance of 30 metres between the nearest neighbouring dwelling (No.90 Brow of the Hill) and Plot 6 which is the closest of the proposed dwellings.

The proposed replacement clubhouse would be sited further south adjacent to the lake, over 140 metres away from any neighbouring dwellings. This facility is likely to provide toilets, changing facilities and showers, equipment storage and a kitchen and seating area for use by members of the sailing club / Leziate Lake.

It is therefore considered overall that 7 no. dwellings and a replacement clubhouse could satisfactorily be accommodated on the site without having any significant harm on the amenities of neighbouring properties.

Highway Safety

Although Norfolk County Highways have objected to the proposed development their objection is not on highway safety grounds. The existing access to the site is proposed to be used and NCC Highways have confirmed that the access for the proposal could be safe and parking and turning for vehicles could accord with the parking standards for Norfolk. These matters would be secured at reserved matters stage should outline planning permission be approved.

The reason for NCC Highways objecting to the application is that they consider the proposal is remote from local service centre provision conflicting with the aims of transport sustainable development, the need to minimise travel, the ability to encourage walking, cycling, use of public transport and reduce the reliance on the private car. Whilst their comments regarding sustainability are noted, the NPPF recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas and Policy CS11 of the Council's Core Strategy (2011) further recognises that in the rural areas the private car will remain an important means of travel. However, in this case there are a number of public footpaths in close proximity or running adjacent to the site in addition to a regular bus service on the B1145, in walking distance from the proposed dwellings. The site is also walking distance from Ashwicken school.

Furthermore, it is considered that the proposed development needs to be weighed against the existing / last use of the site. Whilst the former clubhouse was destroyed by fire in 2018, a replacement building would likely be supported. As a large and popular leisure facility and wedding venue the site was a significant traffic generator in its heyday with the majority of visitors travelling by private car. These numbers would inevitably be reduced by the proposed development for a much smaller clubhouse facility and 7 no. dwellings.

It is therefore considered overall that the proposal would not conflict with the aims of sustainable development and would comply with the provisions of the NPPF as well as Policies CS08 and CS11 of the Core Strategy (2011).

Public Rights of Way (PROW)

There are 2 no. PROW that run along the site frontage (Public Footpath Leziate FP8) and along the western boundary of the site (Restricted Byway Leziate RB13). These are not affected by the proposed development therefore NCC Public Rights of Way have raised no objection to the principle of the application. They do however recommend that as both FP8 and RB13 are to be crossed by the proposed driveway, signage should be included to alleviate any potential conflict between traffic and users of the PROWs. This can be dealt with by imposition of a suitable condition.

In response to the Open Spaces Society objection, utilisation of the 'existing access' by traffic associated with the new residential development would not result in any increase in traffic crossing the PROW given that the last use of the site used the same access point and would have generated far more vehicular movements with more potential for conflict.

Given that the information submitted in support of the application advises that the PROW shall remain in situ and open to the public, remaining unaffected by the proposal, it is not considered reasonable or necessary to require any additional Restricted Byway Rights over FP8 or any other improvements to the existing PROW network.

Trees

The application site is covered by 2 no. Tree Preservation Orders (TPO's), one of which was made on 20th September 2019 (2/TPO/00596) and predominantly covers groups of trees along the frontage of the site, the other dates back to 12th April 1999 (2/TPO/390) and covers some of the trees within the centre of the site surrounding the original clubhouse building.

An updated arboricultural impact assessment has been carried out with a revised report submitted on 23rd September 2019 to correspond with the revised indicative layout plan which shows the majority of mature trees to be retained. Although the revised tree report and indicative layout propose the removal of one of the silver birch trees covered by the recent TPO, the Council's tree officer has confirmed he has no objection to the proposals. If the silver birch covered by the TPO is still required to be removed to facilitate the development at reserved matters stage then it will be necessary for replacement planting to be secured to mitigate the loss.

Ecology

An Ecology Report prepared by Wild Frontier (dated July 2019) was submitted in support of the application. This identified minor negative or neutral impacts to the majority of ecological receptors pre-mitigation, the exception being the population of slow worms present within the semi-improved acid grassland. Minor/intermediate negative impacts as a result of the loss of this habitat for this species are predicted; however, assuming advised mitigation measures are adhered to there is a high level of confidence that these impacts will be reduced to neutral levels.

The population of slow worms will need mitigation by relocation. The objectives of the mitigation are as follows:

- isolate the grassland areas with exclusion fencing, so that reptiles cannot re-enter once removed;
- capture the reptiles within the exclusion fencing;
- move the captured reptiles to suitable receptor site(s); and,
- provide habitat enhancements to the receptor site(s) so that the reptile carrying capacity is fittingly increased.

Prior to clearance works taking place a suitable receptor site will need to be identified, preferably within a reasonable proximity of the site. Details of this will be provided within a Construction Environmental Protection Plan which is secured by condition.

The Ecology Report also advised that clearance of mature trees/shrubs and woodland will require surveys for roosting bats and nesting birds (providing it is not outside of the bird nesting season March 1st to August 31st) to avoid negative impacts. A further 'Ground Level Preliminary Roost Assessment (PRA)' has since been carried out by Torc Ecology (August 2019) in order to assess the potential bat roost status of the trees on site; and provide recommendations for Reasonable Avoidance Measures (RAMs) and/or the requirement for further Phase 2 bat surveys to establish the baseline conditions from which to inform an impact assessment of the proposed works.

The ground level PRA survey identified a number of trees upon the site with the potential to support bat roosts. Further bat surveys are therefore required to determine an impact assessment of the proposed development. A bat Ecological Impact Assessment report will be provided once the necessary bat surveys are completed to ensure a robust mitigation and enhancement strategy can be devised for the site and this can be secured by condition.

Overall it is considered that the proposal accords with national and local policy and guidance relating to ecology and protected species. It is however recommended that further bat and nesting bird surveys are secured by condition in addition to full details of the necessary slow worm mitigation by relocation through submission of a Construction Environmental Management Plan (CEMP).

Affordable Housing

The site area and number of dwellings proposed trigger the thresholds of the Council's affordable housing policy set out under Policy CS09 of the Council's adopted Core Strategy.

At present a 20% provision is required on sites capable of accommodating 5 or more dwellings and/or 0.165 in Leziate. The affordable housing provision is then further split into 70% of the affordable homes being made available for rent and the other 30% for shared ownership or any other intermediate product that meets the intermediate definition within NPPF, meets an identified need in the Borough and is agreed by the Council. In this instance 1 unit for affordable rent would be required.

However, the NPPF states that affordable housing should not be sought on developments of fewer than 10 dwellings and/or 0.5ha other than in designated rural areas. On sites of 6-9 dwellings and less than 0.5ha, a financial contribution based on £60,000 per equivalent whole affordable dwelling will be sought.

As this site exceeds 0.5ha, Policy CS09 applies. However as there are vacant buildings on site which are to be demolished as part of the development, these are eligible for a vacant building credit.

The financial contribution required will depend on the floorspace of the new residential units which would be confirmed at reserved matters stage should outline planning permission be granted. The formula will be as follows:

$$\left(\frac{\text{Proposed GIA of new development} - \text{GIA of existing of vacant building (1027sqm)}}{\text{Proposed new development GIA/Number of dwellings}} \right) \times 20\% = \text{Contribution}$$

If the contribution is greater than 1 unit, the requirement will be 1 no. on-site rental unit plus a financial contribution for the fraction (equivalent to £60,000 for whole dwelling). If less than 1 unit, it should be a financial contribution based on £60,000 per equivalent whole affordable dwelling.

In order to secure the required affordable housing contribution a section 106 agreement has been drafted and signed ready for completion should outline planning permission be granted.

Other Considerations

The Parish Council have commented that they would like the S106 agreement / CIL contributions to support commitment made by the owner of the site which includes a restriction on any further development and no motor boats on the lake. It is not considered reasonable or necessary to restrict further development of the site as any future development proposals would require a further planning application to be made and this

would be determined on its own merits in accordance with planning policies at the time. In terms of a restriction on motor boats, it is not possible to impose such a restriction under this application as it does not directly affect the lake.

An objector has made reference to obligations in a historic Section 52 agreement between British Industrial Sand and Norfolk County Council. Norfolk County Council have confirmed it is their understanding that the agreement has been complied with but that the majority of the agreement relates to areas that do not include the application site. The application site appears to be referred to as the 'Golf Course Appeal' site within the Section 52 Agreement and once this was restored satisfactorily and out of aftercare the S52 agreement was no longer relevant to the land.

Queries have been raised in some representations about car park provision for Ashwicken school. No such provision is being provided or secured under this application. Any agreement regarding this would be between the applicant and the School.

Any issues regarding covenants are outside the remit of this planning application and are a civil matter.

CONCLUSION

The application site comprises previously developed land within the settlement of Leziate, which is defined as a Smaller Village and Hamlet in the Development Plan. In exceptional circumstances Policy DM3 of the SADMP (2016) allows for the development of small groups of dwellings in such areas if the development is of a particularly high quality and would provide significant benefits to the local community. In this case, the site comprises brownfield land immediately adjacent to existing built form which is currently in an unattractive fire-damaged state and is regularly subject to anti-social behaviour. The redevelopment of this land to provide a small group of dwellings and a replacement clubhouse would be of significant benefit to the local community as it would bring the site back into use, remove existing problems associated with the land and enhance the vitality of Leziate. Given the proposal is in outline form only it would be possible to secure a high quality development at reserved matters stage should outline planning permission be granted.

Taking all of the above considerations into account it is considered on balance there are exceptional circumstances in this case to justify the proposal under Policy DM3 of the SADMP (2016). Furthermore the proposal would comply with Policies CS01, CS06, CS08, CS10, CS11 and CS12 of the Council's Core Strategy (2011), Policy DM2 of the SADMP (2016) and the provisions of the NPPF (2019).

RECOMMENDATION:

A. APPROVE subject to the imposition of the following conditions and the satisfactory completion of a S106 Agreement to secure affordable housing and the replacement clubhouse:

- 1 Condition Approval of the details of the means of access, layout, scale, appearance and landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority before any development is commenced.
- 1 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.

- 2 Condition Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted to the Local Planning Authority in writing and shall be carried out as approved.
- 2 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 3 Condition Application for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 3 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 4 Condition The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the latest such matter to be approved.
- 4 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 5 Condition In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority.
An investigation and risk assessment must be undertaken in accordance with current best practice, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.
- 5 Reason To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
- 6 Condition No development shall commence until full details of the foul and surface water drainage arrangements for the site have been submitted to and approved in writing by the Local Planning Authority. The drainage details shall be constructed as approved before any part of the development hereby permitted is brought into use.
- 6 Reason To ensure that there is a satisfactory means of drainage in accordance with the NPPF.
- 7 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 a scheme that has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the erection of fencing for the protection of any retained tree or hedge before any equipment, machinery, or materials are brought on to the site for the purposes of development or other operations. 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.

- 7 Reason To ensure that existing trees and hedgerows are properly protected in accordance with the NPPF. This needs to be a pre-commencement condition given the potential for damage to protected trees during the construction phase.
- 8 Condition Prior to the first use or occupation of the development hereby approved, full details of both hard and soft landscape works shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include finished levels or contours, hard surface materials, refuse or other storage units, street furniture, structures and other minor artefacts. Soft landscape works shall include planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment) schedules of plants noting species, plant sizes and proposed numbers and densities where appropriate.
- 8 Reason To ensure that the development is properly landscaped in the interests of the visual amenities of the locality in accordance with the NPPF.
- 9 Condition All hard and soft landscape works shall be carried out in accordance with the approved details. 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.
- 9 Reason To ensure that the work is carried out within a reasonable period in accordance with the NPPF.
- 10 Condition A landscape management plan including long-term design objectives, management responsibilities, management and maintenance schedules for all landscape areas, other than small privately owned, domestic gardens, shall be submitted to and approved by the Local Planning Authority prior to the occupation of any part of the buildings or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.
- 10 Reason To ensure that the landscaping is properly maintained in accordance with the NPPF.
- 11 Condition No development shall commence until the results of Phase 2 bat surveys, an ecological impact assessment and details of proposed mitigation measures (to include provision of bat boxes) 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 with any necessary mitigation being carried out prior to the first occupation of any dwellings.
- 11 Reason In the interests of protected species in accordance with the provisions of the NPPF (2019).

- 12 Condition Prior to the commencement of development a Construction Environmental Management Plan to include full details and timetable of the relocation of slow worms shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 12 Reason In the interests of protected species in accordance with the provisions of the NPPF (2019).
- 13 Condition Any vegetation clearance (trees/shrubs) must be conducted outside of the main bird nesting season (1st March to 31st August) unless otherwise agreed in writing by the local planning authority.
- 13 Reason In the interests of protecting nesting birds in accordance with the provisions of the NPPF (2019).
- 14 Condition Prior to first occupation/use of the development hereby permitted, a plan shall be submitted to and approved in writing by the Local Planning Authority indicating the positions, heights, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the occupation/use hereby permitted is commenced or before the building(s) are occupied or in accordance with a timetable to be approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 14 Reason To ensure that the development is compatible with the amenities of the locality in accordance with the NPPF.
- 15 Condition The development hereby permitted shall provide 7 no. dwellings and a replacement clubhouse.
- 15 Reason For the avoidance of doubt and to secure the terms of the permission in accordance with Policies CS08 and CS09 of the Core Strategy (2011) and the provisions of the NPPF (2019).
- 16 Condition Prior to the first occupation of any dwelling hereby permitted a scheme for signage along the access drive to alleviate any potential conflict between traffic and users of the public rights of way shall have been submitted to and approved in writing. The scheme shall include: design, wording, materials and location. Prior to the first occupation of any dwelling hereby permitted the approved signage shall be erected and shall thereafter be retained.
- 16 Reason In the interests of users of the public rights of way and access drive in accordance with the NPPF and Development Plan.

B. In the event that the S106 Agreement is not completed within 4 months of the date of this Committee meeting, the application shall be **REFUSED** due to the failure to secure affordable housing and the replacement clubhouse.