

Parish:	Terrington St Clement	
Proposal:	One residential dwelling with detached garage	
Location:	Chase Cottage 12 Lynn Road Terrington St Clement King's Lynn	
Applicant:	Mrs Beryl Hornigold	
Case No:	19/01658/F (Full Application)	
Case Officer:	Clare Harpham	Date for Determination: 21 November 2019 Extension of Time Expiry Date: 6 April 2020

Reason for Referral to Planning Committee – The Officer Recommendation is at variance with the Parish Council who object to the application.

Neighbourhood Plan: No

Case Summary

The application is for full planning permission for one dwelling and detached garage. The majority of the application site is within the development boundary of Terrington St Clement and the site is accessed along an existing access that currently serves another dwelling and public footpath. The application complies with planning policy with the exception of an area of land proposed as 'garden' to the south of the proposed dwelling. This land is bounded by existing gardens and it is not considered it would have a detrimental impact on the countryside.

Key Issues

- Principle of Development
- Planning History
- Design
- Amenity Issues
- Highways Issues
- Flood Risk
- Biodiversity
- Other material Considerations
- Crime and Disorder

Recommendation

APPROVE

THE APPLICATION

The application site is located along an access track to the rear of Chase Cottage (no.12) and no.10 Lynn Road, Terrington St Clement. The access track which is currently hardened ground/gravel, currently serves Chase Cottage and the application site to the rear which currently comprises agricultural land which has some conjoined agricultural buildings which are in a relatively poor state of repair and the land beyond. Along the eastern side of the access track in a public right of way.

The application site is currently bounded by a mixture of hedging, chain link fencing (to AW pumping station) and close board fencing.

The application has been amended during the course of the application and is now for one residential dwelling with detached garage.

SUPPORTING CASE

The site is within the development area boundary for the village of Terrington St Clement, which is identified as a sustainable and accessible village capable of accommodating housing growth in the plan period.

The proposal is considered to be compliant with material planning policy at both local and national level.

The site is suitable and available to deliver a quality family home without harm to policy, landscape or amenity.

It is therefore requested that planning permission be granted.

In answer to objections raised by the PC and the neighbour at No. 12:-

A hard surfaced and drained drive is to be provided alongside No 12 minimising disturbance to that dwelling and enhancing the access to its private parking and turning area. The improved drive also enhances the surface of the existing public right of way.

The plans are based upon a topographical survey and these illustrate there is sufficient width of land all within the applicants ownership for the access drive.

The Public Right Of Way is over an existing track which will become the access drive serving the dwelling and No.12. There is not a separate access for the Public Right Of Way they use the same route. It is no different to the public using minor roads which do not have a footpath.

The proposed access drive provides the same width as the existing unsurfaced access. Therefore, the proposals do not compromise the IDB who can still maintain the drain using the same width. We understand they do this just once a year and only if necessary.

No.12 raise concern about loss of privacy. However, privacy is already compromised. There is an existing agricultural access and No. 12 use the same access to get to their garage and parking area, plus the Public Right Of Way is over the existing access where any member of the public could look into the ground floor kitchen window. We assume the bedroom and bathroom (obscure) windows are at first floor so privacy should not be an issue.

PLANNING HISTORY

2/93/0724/O: Application Refused: 29/06/93 - Site for construction of three dwellings - Adj 12 Lynn Road Terrington St Clement

RESPONSE TO CONSULTATION

Parish Council: OBJECT There is insufficient space for the access drive when the public footpath and private driveway are taken into account.

The access road encroaches into the 9m access strip required by the IDB to maintain the adjacent drain.

Concerns regarding the hammerhead access which could lead to further development outside the planning boundary. The garden is outside the planning boundary and is on agricultural land.

Highways Authority: NO OBJECTION Following a site visit, the access visibility would be to standard for the speed of traffic experienced and I also observe that the access is proposed to be widened. The parking and turning provision would also be provided at a distance from the highway that it would not be impacted. Conditions recommended.

NCC Public Rights of Way: NO OBJECTION following a revised plan which includes a Highways Boundaries Plan which (which shows the legal extent of the PROW). Please note that no works, including changes to the surfacing, is permitted within the full legal extent of the PROW without prior consent from the Highways Authority. If the proposed works require the PROW to be closed for more than a day then a TRO (Traffic Regulation Order) must be applied for in order that the route can be legally closed for the duration of the works. The full legal extent of this footpath must remain open and accessible for the duration of the development and subsequent occupation.

Environment Agency: NO OBJECTION The FRA by Ellingham Consulting Ltd has appropriately assessed the flood risk to the site. The recommendations of raising the floor levels to 3.85m aOD and the inclusion of 0.3m of flood resilience measures above this have been incorporated into the elevation drawings submitted. We recommend that this is adhered to. It is for the LPA to determine whether the sequential test is required.

Environmental Health & Housing - Environmental Quality: NO OBJECTION The information submitted indicates that there may be contaminants present at the site as a result of its former uses for agriculture. Therefore, I recommend that conditions are included (pre-commencement conditions agreed by agent email dated 8th January 2020).

Emergency Planning Officer: NO OBJECTION Due to the location in an area at risk of flooding it's advised that the occupants' sign up to the EA FWD service and prepare a flood evacuation plan.

Natural England: NO COMMENT refer to standing advice.

REPRESENTATIONS

Fourteen letters of **OBJECTION** provided by a seven objectors covering the following:-

- Permission was refused with application reference 2/93/02724/O for a similar development.

- Concerns whether access is suitable for both footpath and vehicular traffic serving the dwelling and agricultural land to the rear. This could cause traffic to have to wait on the road and not be safe for pedestrians.
- When the IDB maintain the drain it is not possible to use the access for vehicular traffic.
- Access is only 1m from Chase Cottage and concerns expressed regarding drainage of access (hard surface) as it is at a higher level than Chase Cottage.
- Lynn Road is busy and the access is close to the Benns Lane junction which is poor.
- Rear garden of the proposed dwelling is outside the development boundary of the SADMP.
- The land has been used as part of a small-holding for a retired farmer and therefore not highly trafficked.
- The trees on site were cut down in preparation for the application to be submitted.
- Will spoil outlook / view.
- Amenity issues, causing overlooking and blocking light.
- Chemicals have been stored on the land, as well as burning and bricks/rubble.
- Query regarding whether some of the land in the access is in the ownership of Chase Cottage.
- Who will be responsible for repairs to access.

One letter which is **NEUTRAL**:-

Query regarding questions relating to the footpath, i.e. width, will footpath be cleared, will pedestrians be at risk of vehicle movement.

LDF CORE STRATEGY POLICIES

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS09 - Housing Distribution

CS11 - Transport

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM2 – Development Boundaries

DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

NATIONAL GUIDANCE

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

National Planning Policy Framework – sets out the Government’s planning policies for England and how these are expected to be applied.

Planning Committee
1 June 2020

National Planning Practice Guidance - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

National Design Guide 2019

PLANNING CONSIDERATIONS

The main issues to consider when determining this application are as follows:

- Principle of Development
- Planning History
- Design
- Amenity Issues
- Highways Issues
- Flood Risk
- Biodiversity
- Other material Considerations
- Crime and Disorder

Principle of Development

The application site is predominantly within the development boundary as identified within Inset Map G93 (Terrington St Clement) of the Site Allocations and Development Management Policies Plan 2016. The location of the proposed dwelling and the majority of the proposed garden is located within the boundary, however there is an area to the south of the proposed dwelling which would be sited as countryside.

In principle the siting of the dwelling, garage, parking and turning and some garden within the development boundary is acceptable in principle and complies with Policies CS02 and CS09 of the Core Strategy and Policy DM2 of the SADMP. The change of use of the current agricultural land to garden land outside of the development boundary is contrary to policy, however it is a material consideration that the development boundary in this location cuts through other properties gardens, with the immediate neighbour (no.8) having the development boundary cutting through it at an angle and the development boundary extending back around the rear of no.3 Station Road further south-west. It is considered that the change of use of this land would not materially harm the character and appearance of the surrounding countryside. The proposed garden would not project back into the countryside, with other approved garden land being immediately adjacent to it at the side and rear (south-west). There are objections to the proposal relating to the use of land outside of the development boundary as garden, including an objection from the Parish Council, but overall this is considered acceptable given the proposed garden does not protrude back into the countryside and is immediately adjacent to other garden land.

Overall, it is considered that the proposal would comply with paragraph 78 of the NPPF, Policies CS02 and CS09 of the Core Strategy and Policy DM2 of the SADMP and that the additional garden proposed would not materially harm the character and appearance of the surrounding countryside and would be acceptable.

Planning History

Outline planning permission was refused in June 1993 (2/93/0724/O) for the construction of three dwellings on an area of land which includes the application site and land which now forms land within the plot where no.8 Lynn road currently stands.

Planning Committee
1 June 2020

There were three reasons for refusal which included the fact that the site was outside the development boundary as it then was and did not enhance the form and character of the area. The proposed dwellings would be accessed along a long access track to the rear of existing development which was considered a sub-standard layout of land and would result in the loss of privacy and amenity of the neighbouring dwellings. Also, the applicant could not demonstrate that they had control over sufficient land relating to the visibility splay at the proposed point of access.

The current application is materially different from the original refusal as the application site includes only some of the land and the proposal is for one dwelling. Whilst it is to be located to the rear of no. 10 and 12 Lynn Road, the character of the locality must be considered when assessing if this is acceptable. It should be noted that no.s 10 and 12 are closer to the highway than no.s 8 and 6 to the west, which are set further back within their plots. In addition, in close proximity is no.3 Station Road which, while accessed off Station Road, is set back behind no. 1 and 5 Station Road and in close proximity to the application site. Therefore, whilst linear development is the predominant form along Lynn Road and Station Road, there is some form of tandem development around this corner in proximity to the site, which is a material consideration.

The other reasons for refusal on the 1993 application which relate to amenity and highway safety have been overcome with this application which will be addressed in the report below.

It is considered that the application is materially different than the application which was previously refused in excess of 20 years ago.

Design

The design of the proposed access is considered in keeping with the locality, with an attractive double fronted 'cottage style' design with chimney. The principle elevation faces east towards the access in order to limit amenity issues to the dwellings that face onto Lynn Road (no. 10 and 12). The proposed materials are a red multi-brick and red concrete pantiles with white fenestration which is considered acceptable.

The proposal would therefore comply with section 12 of the NPPF and Policy CS06 of the Core Strategy.

Amenity Issues

The amenity of the neighbouring dwellings has been considered and there have been objections from neighbours relating to overlooking and loss of light.

The proposed dwelling would be located 19.6m to the south of Chase Cottage (no.12) and in excess of 20m from no.10 Lynn Road. The only proposed first floor window would serve a bathroom which is a non-habitable room. Therefore, the proposal is considered at a sufficient distance that it would not materially overshadow any habitable rooms within the dwellings. While it may overshadow some areas of the gardens when the sun is lower in the sky it is of note that there is currently a single storey outbuilding at the bottom (south) of the garden of Chase Cottage, and a hedge to the rear garden of no.10. The proposal is not considered to overlook either of these dwellings or their private amenity space, nor overshadow them to the degree that would warrant a refusal.

The dwelling would be located just over 17m from the western boundary with no.8 Lynn Road and in excess of 20m from its side wall. The proposal is considered at a sufficient distance as to not create material overlooking or overshadowing of this dwelling.

The proposed principle elevation would be 15m from the eastern side of the IDB drain and this would look towards land well to the rear of the dwellings which front Lynn Road to the east. There would be no material impact with regard to overlooking or overshadowing of these dwellings.

The impact of the proposed access has also been considered on the amenity of Chase Cottage which has some side windows which front onto the access track. These windows serve a kitchen (downstairs) and a bedroom and bathroom (upstairs). Whilst an access has the potential to create noise and disturbance it is a material consideration that there is already an access in this location which serves the farm buildings on the application site. It is also proposed to create a hard surface (with drainage) from the road to the rear of Chase Cottage in order to reduce the possible noise created by other forms of surfacing such as gravel. On balance it is considered that the potential increase in noise created by one dwelling would not create a disturbance to the degree that would warrant a refusal on this basis.

The dwelling is to be raised so that finished floor levels are 0.5m above existing ground levels in order to comply with flood risk. Ground levels are to remain as existing with a level access provided to the northern side of the dwelling and the patio is to be raised to the rear. These are at a sufficient distance from the boundaries not to cause issues relating to overlooking of neighbouring gardens. It is of note that in addition there is an outbuilding to the rear of Chase Cottage which screens its rear parking area/garden.

The proposal therefore complies with para 127 of the NPPF and Policy DM15 of the Site Allocations and Development Management Policies Plan.

Highways Issues

The proposal would be served by an existing access which currently serves Chase Cottage and also the agricultural land to its rear, which includes the application site. Along the eastern side of this existing access is a footpath (PROW) which is currently incorporated into the access track with the path itself being overgrown with existing vegetation. There are objections from the Parish Council and third parties regarding the access and it being shared with the public right of way. However, it should be noted that the existing access, which serves both Chase Cottage and the agricultural land and buildings to the rear, currently has the footpath within it. The legal extent of the footpath looks overgrown in places and so people utilising the footpath naturally walk within the existing access.

There are no objections from the Highways officer with regard to the proposal which has parking and turning provision to adopted standards and visibility which would comply with the speed limits.

The objection from the Public Rights of Way officer has been withdrawn as they are satisfied that the public footpath will be wholly incorporated within the proposed access and will be resurfaced. Their main concern was that some of the footpath could have been resurfaced, whilst some may not have been, which could have led to a uneven surface which could be a trip hazard. Whilst there are concerns from members of the public and the Parish Council regarding the width of the access and pedestrians and cars sharing the surface, this is not a concern expressed by the PROW officer; indeed, it is not unusual for pedestrians and vehicular traffic to share the same surfaces.

Flood Risk

The application site is located within Flood Zone 3 of the SFRA and a Tidal Hazard Mapping area. There are no objections to the proposal from the Environment Agency.

Whilst the EA have no objection, the LPA still need to apply the sequential test. The aim of the sequential test aims to steer new development to areas with the lowest probability of flooding. The majority of the village is within Flood Zone 3 and there are no comparable sites available at a lower flood risk and therefore the proposal passes the Sequential Test.

As the proposal is in Flood Zone 3 then the Exception Test needs to be passed as well as the Sequential Test. Paragraph 160 of the NPPF states that for the exception test to be passed it should be demonstrated that:

- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

The Environment Agency are satisfied that the site-specific flood risk assessment demonstrates that the development will be safe for its lifetime provided the mitigation measures within the FRA are secured by condition. The proposal is considered to be in a sustainable location, with Terrington St Clement classified as a Key Rural Service Centre within the settlement hierarchy and therefore the sustainability benefits of approving a dwelling in this location are considered to outweigh the flood risk. Consequently, the proposal passes the Exceptions Test as set out within para 160 of the NPPF.

The open drain to the east of the application site is a Board maintained drain and therefore the IDB Byelaws apply to the proposal. The proposal is over 9m from the brink of the drain (shown as a dashed line on the proposed site plan) and therefore will not require a relaxation of Byelaw 10. There are objections from the Parish Council relating to the proximity of the drain to the access however the access would not prevent the Board's machinery from maintaining the drain.

There have been concerns expressed by the neighbour at Chase Cottage regarding hard surfacing of the access, which is set at a higher level than the cottage, with regard to surface water drainage of the access. The agent has confirmed that the drainage channels will be placed into the drive which will then have a piped connection to the IDB drain subject to their approval. This is acceptable; however a surface water drainage condition will be required prior to the commencement of the development to ensure that the relaxation of Byelaw 3 has been obtained (the agent has agreed to the pre-commencement condition in email dated 14th January 2020).

The proposal complies with the principles of the NPPF with regard to flood risk and Policy CS08 of the Core Strategy.

Biodiversity

The application relates to the demolition of existing buildings and there is also an open drain along the eastern boundary. A 'preliminary ecological appraisal' by Biome consulting was submitted with the application which concluded that no protected species were identified, and no further survey work was required in relation to their habitats prior to works commencing. There is information relating to breeding birds and site clearance times but at the time a site visit was carried out there were no trees on site which would be affected by the proposal.

There has been a comment received relating to the fact that the trees on site were removed prior to the application being submitted. This may be the case, but the trees were not protected by virtue of either a Tree Preservation Order or in the Conservation Area of Terrington St Clement and therefore could be removed.

The application complies with para 175 of the NPPF and Policy CS12 of the Core Strategy.

Other material Considerations

There have been objections to the proposal, most of which have been addressed within the report above. There has been an objection with regard to the proposal spoiling the view / outlook. There is no right to a private view and therefore this is not a material planning consideration.

There has been an objection relating to chemicals having been stored at the site and previous uses. This is quite common with former agricultural buildings/uses and conditions can be applied with regard to contamination prior to the commencement of development (the agent has agreed to pre-commencement conditions regarding contamination).

There was a query as to whether part of the access was in the ownership of Chase Cottage. The agent has double checked the land ownership and has confirmed that the whole of the application site is in the ownership of the applicant.

There is a query regarding maintenance. The access is in the ownership of the applicant and therefore would be responsible for any repairs/maintenance.

Crime and Disorder

There are no crime and disorder issues which have arisen due to this application.

CONCLUSION

The proposed dwelling and detached garage are considered to relate to the form and character of the immediate locality. The proposal would not cause any material issues with regard to neighbour amenity nor highway safety. Whilst there is some land to the south of the proposed dwelling, which is outside the development boundary, it is not considered that its change of use to garden land would have a detrimental impact on the surrounding countryside. The proposal is considered to comply with the principles of the NPPF, Policies CS02, CS06, CS08, CS09 and CS11 of the Core Strategy and Policies DM2, DM15 and DM17 of the Site Allocations and Development Management Policies Plan. The proposal is therefore recommended for approval.

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 in accordance with the following approved plans:-
- 'Location Plan' 2241-00C received by the Local Planning Authority on 3rd March 2020;
 - 'Proposed Site Plan' 2241-05D received by the Local Planning Authority on 3rd March 2020;
 - 'Proposed Floor Plans, Elevations and Sections' received by the Local Planning Authority on 5th December 2019; and
 - 'Proposed Garage Floor Plans and Elevations' received by the Local Planning Authority on 5th December 2019.
- 2 Reason For the avoidance of doubt and in the interests of proper planning.
- 3 Condition The application hereby approved shall be carried out in accordance with the Flood Risk Assessment by Ellingham Consulting Ltd (ECL0038) dated July 2019:
- Finished floor levels shall be set at 3.85m aOD.
 - Flood resilient construction shall be incorporated up to 0.3m above finished floor levels.
- 3 Reason In order to prevent an increased risk of flooding in accordance with the principles of the NPPF.
- 4 Condition Prior to the commencement of the use hereby permitted the vehicular access indicated for improvement on Drawing No. 2241-05D shall be upgraded (widened) to a minimum width of 4.5 metres in accordance with the Norfolk County Council residential access construction specification TRAD 1 for the first 5 metres as measured back from the near channel edge of the adjacent carriageway. 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 construction of a satisfactory access and to avoid carriage of extraneous material or surface water from or onto the highway in the interests of highway safety and traffic movement.
- 5 Condition Notwithstanding the provision 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 / 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.
- 5 Reason In the interests of highway safety.
- 6 Condition Prior to the first occupation of the development hereby permitted the proposed access / on-site car parking / turning area shall be laid out, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.
- 6 Reason To ensure the permanent availability of the parking/manoeuvring areas, in the interests of satisfactory development and highway safety.
- 7 Condition Prior to the commencement of groundworks, an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of

any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - * human health,
 - * property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - * adjoining land,
 - * groundwaters and surface waters,
 - * ecological systems,
 - * archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

- 7 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. This needs to be a pre-commencement condition given the need to ensure that contamination is fully dealt with at the outset of development.
- 8 Condition Prior to the commencement of groundworks, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 8 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. This needs to be a pre-commencement condition given the need to ensure that contamination is fully dealt with at the outset of development.
- 9 Condition The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of groundworks, other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out

must be produced, and is subject to the approval in writing of the Local Planning Authority.

- 9 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.
- 10 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 the requirements of condition 7, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 8, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 9.

- 10 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.
- 11 Condition No development shall commence on site until full details of the surface water drainage arrangements 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.
- 11 Reason To ensure that there is a satisfactory means of drainage in accordance with the NPPF.