

PLANNING COMMITTEE
15 June 2020

**SUMMARY OF ADDITIONAL CORRESPONDENCE RECEIVED SINCE THE
PUBLICATION OF THE AGENDA AND ERRATA**

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Cllr Collingham: In calling in this application, I would reiterate much of what is contained in the letter Vertex has sent to the Borough Planners. This road is not in the conservation area, the mix of homes and businesses give the street scene an eclectic feel so there is no coherent street scene. I understand the owners wish to erect the garage in order to refurbish the current garage for use by their parents, one of whom has had a serious accident which currently limits his mobility. The dwellings in this part of the village were all constructed at a time when long front gardens were the norm, but as we move into lives of increasing multiple occupancy and are looking to increase our housing stock, this view of appropriate use of space might become increasingly untenable.

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Applicant: A supporting statement (summarised) was received from the Applicant on June the 3rd regarding the following:

The applicant, the owner of the property, has explained how they hope to live there with their elderly parents and their child. They are looking at the local primary school for their child.

They have stated that after they cut the hedge on the west boundary after purchasing the property in December 2019. The hedge is apparently about 8 foot high and nearer to the neighbours window than the planned extension. It was apparently higher than 8 foot for many years prior to the applicant reducing its height. The neighbour apparently hadn't previously expressed concerns and wanted to install a 6 foot fence along the boundary. The applicant has questioned why overshadowing has now become an issue and believes the proposed extension will allow more light in to the neighbours window.

The applicant states that they cannot understand why the proposal warrants the attention and time of the planning committee, given the scale of the proposal and the single public comment. They have suggested that the planning committee should be for larger, more controversial applications; those that have received multiple strong objections.

The applicant has stated that they are to be considerate neighbours and the proposed changes will be positive.

Parish Council: The Council has now reviewed the application and recommends **REFUSAL** on the following grounds:

- The Council considers that the proposals represent over-development in that particular part of Lynn Road and would also be at odds with the surrounding bungalows;
- The Council also considers that it would mean substantial development extremely close to the boundary with the neighbouring property at No. 59 and there is likely to be a direct loss of natural light and overshadowing to the extent that it will be overly detrimental to their right to enjoy their home.

Third Party: An additional letter of **OBJECTION** has been received from the neighbour in response to the applicant's statement. The comments raised can be summarised as follows:

- The inference given to me being a Parish Councillor in the context of this application is incorrect; my objection was raised as a member of the public, at the Grimston Parish Councils meeting where I had declared an interest.
- Mr. Mason says that the affected window is not in the main use room, again incorrect, it is in our main room, the Lounge.
- He states that he has cut the hedge (which is in his ownership) but admits that he did not reduce it directly opposite the said window and admits it is eight-foot-high, I will remind members that Mr. Mason has a duty to maintain the hedge at 6ft 6ins. I can only assume he has deliberately left the hedge at this height to justify his argument that a solid wall would be a better alternative and to confuse the issue.
- The hedge in front of the window is deciduous which does allow some light to permeate particularly in the autumn and winter darker months, a hedge can be trimmed a wall is permanent.
- The claim that the hedge "Has been this height for years" is another gross exaggeration which he cannot substantiate, originally we had fence panels at 4 feet high which did not impede light, he further states that I last complained about the hedge in 2014 that is also not correct, I have copies of letters I wrote complaining to the previous owner on the 23/07/2016 and again 06/08/2019, each time asking for his hedge to be cut, (there was also one verbal encounter in 2015 where the previous owner told me I had no rights at all) as to why Mr. Mason was not given these two letters is for him to pursue, I will add that action was taken by the then owner to trim the hedge.
- Mr. Mason is at a loss as to why I have complained and why I am objecting, I have covered this fully in my objection letter, he asks "What do I want to gain" all I want is what I am entitled to the Right to light under the 1832 Prescription act (which is still current). Our home enjoyed uninterrupted light from 1966 until 2014 when I had to complain about the height of the hedge blocking out light to our lounge, the requirement of the act is to have received uninterrupted light for a minimum of 20 years, I had 48 years until 2014.
- The assertion that the extension will be "Much further back" is supposition, his existing property is five feet away from my property of which three feet is our side of the boundary which gives him a two-foot clearance on his side, of this the proposed flat roof will extend at least 10 - 12 inches over this clearance, given that I also have a soffit and guttering projecting over my three-foot clearance the actual distance for light permeation to my window is reduced to a meagre 30 inches, I would not classify this small margin as being "Much further back".
- Since reviewing the impact this proposal will have on our right to enjoy our home I also realize that there will be serious overlooking from the proposed first-floor extension due to the rear dormer windows being larger in height than those at the front, also the height of the roof is proposed to be increased which will give an elevated un-interrupted view over our private garden I estimate we will be overlooked by at least 80%.
- Mr Mason says he wishes to build a beautiful home "within Planning Guidelines" yes I agree to the sentiment of a beautiful home, but does it have to be at the expense of other people to be deprived of their right also to a beautiful home.

Cllr Charles Joyce: The following queries (summarised) have been raised:

- What was the reason when on Friday 29 May you wrote to the applicant's representative stating you would approve this application and asked for a supporting statement from the representative with the full knowledge that the Parish Council had not made comment, but were due to meet on the Monday 1 June? The applicant appears to have written the supporting statement himself. If this is correct are you aware of there being any reason for him doing this rather than the agent?
- On page 20, you state the loft conversion will involve a slight rise in the roof of the applicant's property. What do you mean by slight? In percentage terms?
- Also you state other properties are of a similar height as the applicant's new height. Which ones?
- What is the total area of the proposed building? And what is it at present?

- Mr Pitcher in his objection letter refers to a right to light and claims it is enshrined in the 1832 Prescription Act. He also refers to the 45 degree angle and considers that the application fails on both the horizontal and vertical planes. Is he correct?
- In your report, you acknowledge there is overbearance and overshadowing. What level of overlooking is there?
- I note that at the bottom of page 20, you state, " the level of impact is not consider materially greater than the impact of an extension ... that could be built under permitted development." Permitted development is trumped by Protocol One and Article 8 which are part of a signed international treaty enshrined in domestic statute. This is in relation to Mr Pitcher's statement that 7 years ago his wife suffered a severe stroke limiting her mobility, and now spends much time sitting in the room where the extension is claimed to adversely affect the light coming in through the window. What consideration has been given to these comments made by Mr Pitcher as regards Protocol One and Article 8? As you will know the Higher Court has ruled that public policy is not a defence to deny anyone their rights under Article 6.

Assistant Director's Comments: The responses to Cllr Joyce's queries are as follows:

- The LPA has to make an objective assessment of the proposal. The Parish Council were consulted on the 19th of March and were given until the 9th of April to respond. The comments they have provided have been included within late correspondence, and the issues raised are already covered in the officer report.
- It does not matter whether the applicant or the agent submits the supporting statement.
- The ridge height of the existing dwelling is approximately 4.5 metres and the height of the extended dwelling would be approximately 6.4 metres to the ridge. This equates to just over a 40 percent increase in overall height.
- There are a mix of dwelling heights along Lynn Road with some of the existing bungalows in the row having accommodation in the roof-space.
- The existing dwelling has a ground area of approximately 100 square metres and the extended dwelling would have a ground area of approximately 150 square metres.
- As confirmed in the Officer report the proposed first floor windows in the rear elevation will face towards the applicant's garden so won't allow significant overlooking of either neighbouring property. Imposition of a condition has been recommended in order to prevent use of the flat roof extension as a roof terrace in order to protect neighbour amenity.
- The Officer report acknowledges that the proposed rear extension will block light to the flank elevation window of the neighbouring dwelling (No.59) and acknowledges that the impact will be significant. However, 'rights to light' under the 1832 Prescription Act are private property rights and are civil matters covered under that legislation. The European Convention on Human Rights (ECHR) requires the rights of individuals to be balanced against the wider public interest, which has been taken into consideration in relation to this application. The Local Planning Authority is required to take account of the permitted development fallback position since it is a material planning consideration. It is a reasonable exercise of planning judgement to recommend approval of a proposal where a similar proposal that could be achieved under permitted development would have a similar level of impact. That said, Members will need to consider the emphasis that has been placed on the fallback position in this case, and whether they agree with the weight given to this in the officer recommendation.

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Parish Council: The Council **SUPPORTS** the application and recommends planning approval.

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Applicant: The following supporting statement has been submitted by the applicant:

We previously applied for permission to replace our holiday home at the above address and increase the floor space by approximately 7m sq.

Following the rejection of that application, we took note of the reason for refusal, reduced the floor space, and hope you will now feel able to approve our application. The increase in usable floor area is now approximately 1msq. I note that the only objection is from the Parish Council. The objection is based on an increase in floor space of 8.63 m sq, but that figure has been incorrectly calculated as noted in the planning officer report.

The bungalow at 43, North Beach has been in my family's ownership for approximately 30 years and is used by us as a holiday home during the 6 month occupancy period. Over time the condition of the bungalow has deteriorated and it has become increasingly impractical for a family to use. The electrics and plumbing are now failing and with the current construction being asbestos based, it is difficult to make improvements safely.

We are hoping to re-use the existing support stilts, which will minimise groundworks and require no disturbance of the flood defences. In order to re-use the stilts we need to reposition the external walls - reducing useable floor space on the existing upper ground floor level. To compensate we have included an extra storey accommodating 1 of the 3 bedrooms.

We have no need or wish to increase the number of bedrooms and only seek to improve the quality of the building and meet modern flood resilience requirements, so we are able to enjoy our holiday home for another 30 years.

Cllr Parish: The following queries (summarised) have been raised:

- Looking at the documents I cannot see where advice from Natural England, Local Advice dated 1st April, has been followed. Please show me it has, if it has.
- I note that it is recognised that the proposal will result in a structure bigger than its neighbours. I would like the actual height and width of this proposal compared to the real height and widths of neighbouring properties. I would also like to know the difference in the dimensions of the existing property compared to the proposal.
- Given that there are no site visits and that Google street view gives no notion of the impact of the Beach properties on the ambiance of the area - there is no street scene and the impact of these properties is when looking from the public footpath on the raised inner sea defence, which runs close to the back of the property (and from where the attached photographs were taken); the sea wall and promenade to the front, and the beach below the sea wall - I would like to know how a judgement has been made about such an impact.
- The other significant issue is the increase in floor area which, though less than in the proposal which was refused, is still 11% with scope for it being more than that if a new owner dispensed with the internal staircase. Such increases generally indicate an intention to accommodate additional people which is not permitted under safety rules governing Beach properties (see District Emergency Planning Officer notes April 3rd) so where is the line drawn?

Assistant Director's comments: The responses to Cllr Parish's queries are as follows:

- Natural England did not provide a bespoke response for this application, instead, they referred to a general advice note. The site does not fall within a designated site and the guidance notes states that "where a dwelling or houseboat is to be significantly renovated, or demolished and replaced, then this is not likely to result in a significant impact on a designated site, provided that construction works are carried out sensitively, and the footprint of the structure does not increase". The general advice note is more tailored to other sites in East Anglia that are within or immediately abutting designated sites. In this case, the sea wall and promenade sit between the designated sites to the west and

provide a very significant barrier. The ground area of the replacement building will not be greater than the existing dwelling and there will be an existing foul drainage system in place for the replacement dwelling to connect to. It is not considered necessary to condition the construction any further than as recommended in the report given the separation from the designated sites to the west. If Natural England had particular concerns, they would have provided a bespoke response.

- The proposed dwelling will be just over 8 metres high when measured on the road side and approximately 5 metres high above the level of the promenade. The immediate neighbours are approximately 4.5 metres high, but there is a mixture of different scale dwellings in the vicinity and a mixture of different heights. The width of the proposed dwelling is approximately 10.7 metres at first-floor and approximately half that width at second-floor. The depth and width of the existing dwelling is slightly larger than the proposed dwelling.
- Site visits are now able to be undertaken and the case officer also visited the site when they assessed the previously refused application referred to in the committee report. The committee presentation includes photos taken from the sea wall and promenade.
- Under Policy DM18 (Coastal Flood Risk Hazard Zone (Hunstanton to Dersingham)), one of the conditions of replacement dwellings is that “The level of habitable accommodation provided by the new dwelling would not be materially greater than that provided by the original dwelling. Proposals should not result in an increase in the number of bedrooms over and above the number in the original dwelling”. The existing floor area is 69.7 metres squared (spread over a single floor), and the proposed floor area is 78.33 metres squared (spread over two floors). The internal stairs take up the bulk of the uplift in floorspace and it is not considered likely that the applicant would remove them given they would not be able to access the second-floor otherwise. The number of bedrooms will also remain the same.

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Third Party: THREE letters of **OBJECTION** (including two from the same individual) on the following grounds (summarised):

- Previous refusal stated that the property should be 1.5 storeys high – this is clearly 2 storeys high;
- The height of the dwelling has increased from 7.7m high to 8.8m high (or 8.3m with 0.5m reduction in land levels). How can a building be refused at 7.7m high and possibly approved at 8.3m high?
- Scale of property has not significantly reduced;
- The design and size of the dwelling does not fit in with the nice, peaceful and quite location within this area;
- Will result in overlooking due to its height, size and number of windows and will cause light pollution;
- Turning the property 90 degrees now represents an enormous amount of bi-fold door facing south to both 2 & 3 Millers Farm which in turn will convey light pollution and possibility of creating extra noise;
- The golf/games room has been swapped around but golf simulators are extremely noisy and there is no reference to any soundproofing being installed only acoustic fencing. The CSNN Officer says that a room for this type of activity should not have any windows or doors and be totally soundproofed if close to any neighbours and quotes CSNN response.
- Might have reduced the number of units to one but scale of property along with facilities in it suggests that this property will be used for large gatherings using this narrow road;
- Queries where Historic England realises that this property is 8.8m high given they approved a single storey and one and a half storey dwelling;
- Refers to Parish Council and neighbour objections from previous applications;
- This one property is impacting on 15 properties.

- Health & safety concerns as a result of the vehicles using East End and the removal of a huge amount of soil to reduce levels by 0.5m;
- Queries whether Anglian Water has been consulted;

Cllr Joyce: Queries the following matters:

- What is the sewerage systems in Hilgay? What is its capacity? What is its usage at present?
- Why does the application form not have an address?
- Where is the closest receptor? How close it the receptor? What will be the maximum noise levels heard by this receptor?
- Human rights
- Are there Conservation comments?
- Is there safe access?

Historic Environment Service: The application site has already been the subject of archaeological trial trenching and out previous advice remains unchanged i.e. recommends conditions regarding archaeological investigation and mitigation.

Conservation Officer: The proposed house is centrally located in the site closer to other residential properties, with the driveway and proposed garage being sited nearer to the location of the Scheduled Ancient Monument (SAM). The garage is traditionally detailed and farm more simple in appearance than the main house.

Whilst the driveway is large, if the proposed boundary treatment is sympathetic to the rural edge and views over to the SAM, this proposal should not harm the setting of the SAM. Suggests a traditional native species hedgerow as boundary treatment. Any condition for landscaping should also include the area around the proposed gates. Would also condition the gates themselves to ensure that they are not elaborate in appearance, simple traditional wooden gates should suffice.

Anglian Water comments: The Pre-Development Planning Manager has looked into foul water flooding incidents from the past 15 years and can confirm that these were caused by blockages. Blockages are caused by non-flushable items, such as baby wipes and rags, entering the foul network. On each occasion our Operations Team investigated the incidents and cleared he blockage by jetting and rodding the sewer.

Blockages are not a capacity related issue and therefore cannot be taken into account when assessing the impact of growth.

The Pre Development Planning Manager has also assessed the impact of the proposed dwelling connecting to the local network and can confirm that there is capacity and they can connect without causing detriment. Does not feel it necessary to attach a condition foul drainage if permission is granted.

Assistant Director's comments: The recommended archaeological conditions are already set out on page 53 and 54 of the Agenda (Conditions 8-10).

With regard to Cllr Joyce's queries:

Sewage system

Anglian Water has confirmed sufficient capacity to connect to the foul network. Notwithstanding this, the drainage arrangements are subject to a pre-commencement condition and therefore until a satisfactory scheme is in place, the development cannot start.

Site address

The official address is still Land South of Brett House, East End, Hilgay. The land will not be given a proper address until the applicant makes an application to the Street Naming and Numbering Team.

Closest receptor

There are neighbours to the north and south of the site and the measurements are included within the Committee report. Maximum noise levels are unknown but it is important to note that this is a domestic property and as set out in the report, any potential noise emanating from the golf simulator room has been mitigated by moving the room away from the closest neighbour. CSNN has not objected on these grounds and neither has a noise survey been requested.

Notwithstanding the above, it is recommended that Condition 16 be amended to specifically refer to the requirement for an acoustic fence along the south boundary of the site.

Human rights

The interference with the Convention rights (transposed into UK Law) of the neighbours to have a fair hearing, have respect for private and family life and the home are qualified rights and must be weighed against the wider public interest, which in this case are the legitimate policies of the Development Plan and National Planning Policy and Guidance, which support the principle of development. The issues have been balanced and a judgement made and whilst contrary to the objectors opinions, are not considered to give rise to a breach of their human rights.

Conservation comments

Boundary treatments and landscaping are conditioned. However, it is recommended that Condition 16 is amended to include reference to the entrance gates and an native species hedge to the east boundary of the site.

Safe access

The site has an extant approval for two dwellings capable of being implemented now. This scheme is a reduction in numbers to one dwelling which is supported by the Local Highway Authority subject to conditions relating to the vehicular access, parking and turning on site and visibility splay.

Amended condition

16 Condition: Notwithstanding the details hereby approved, prior to first occupation of the development hereby permitted, full details for the boundary treatments (including entrance gates, acoustic fence to the south boundary and native species hedge to the east boundary) 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 dwelling is 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 and retained thereafter.

16 Reason: To ensure that the development is compatible with the amenities of the locality in accordance with the NPPF.