

**PLANNING COMMITTEE**  
**9 September 2020**

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

**Item No.** 8/1(a) **Page No.** 2 of Report to Follow

**Cllr Kemp:** There is a serious error on Pg.14 of the report. It should read 'People should be encouraged to travel to Lynn through Hardings on foot, by cycle or bus.'

**Agent:** I confirm agreement to the proposed pre-commencement condition (no. 3) as now re-worded.

Previous comments in relation to recommended condition 3 – Please find attached the Preliminary Remediation Verification Report dated May 2019 which had been submitted on 28 May 2020, and appears (together with the appendices) on the 20/00757/FM application's list of documents available on your website. For quick reference, section 3.2 provides the remediation items that had been identified in the earlier Remediation Strategy, whilst section 4.1 provides what has now been undertaken at the site. The remaining remediation is now largely just the provision of a layer of clean topsoil/sub-soil in private garden and landscaped areas. We hope you are able to agree with us that this means that this condition does not need to include any 'pre-commencement' element and can be re-worded to take into account that the Remediation Strategy has already largely been undertaken, including the pre-development ground work.

The PV panel and EV charging locations have been determined by the physical context/practicalities of each plot – PV panels are located where they would be effective by virtue of direction towards the Sun (eg South-facing roof slopes); and EV charging is to be installed where the parking space is adjacent to the corresponding dwelling's wall without an intervening shared footpath.

The following amended plans are also submitted: Accommodation Mix dwg no. 007 Rev P05; and Landscaping Plan – Rev 2.

**Environmental Quality:** In my comments on the application which were included in the recent committee report, I recommended conditions to ensure that the remediation strategy and final verification were carried out as approved under the earlier outline consent. Some of the work has been carried out under this earlier outline consent. However, there are some outstanding works, which include ground improvement works and import of suitable material to form gardens and soft landscaping. Due to the nature of these works, they will have to be carried out both prior to and during construction. It would be acceptable for condition 3 to be suitably worded to require the approved remediation strategy to be carried out in accordance with a timetable to be submitted to and approved by the LPA.

**Cllr Ryves:** It seems to me that it might not be accurate to describe these homes as being built to SHL4 as this standard is now mandatory through building regulations.

1. This said, and please comment on this, it does seem to me that there are additional measures that could be taken to improve the energy efficiency of these homes.
2. In particular there seems some attempt to include PV panels and ASHP, but why to only some homes? And likewise it is not clear to me why EV charging points have been minimised.
3. We are all aware of the RIBA awards for Goldsmith Street in Norwich and I wonder why the Borough does not seem to be rising to this challenge. There is clear reference in public comments to future proofing our housing stock, and in so doing sending a strong message to other developers in the borough. It seems to me to have been

demonstrated on many occasions that purchasers understand the economic benefits of energy efficiency and will pay more up front for well designed buildings.

**Assistant Director Companies & Housing Delivery:** The current Building Regulations align to what was Code 3. For our site we build 29% of our properties to code 4. The reason for this is that the Council and its partners have other obligations as a result of our agreement contained within the Millennium Community Agreement for NORA.

To increase the use of further energy efficiency steps for this site would mean that the site would become financially unviable, resulting in the possible loss of either the 'affordable housing units' or more likely prevent the site coming forward at all.

Just for note the Goldsmith site, which has an average unit value of over 33% that of King's Lynn was subsidised by the Public purse by many millions of pounds. This sort of funding is not available for this site.

**Third Party: ONE additional OBJECTION** has been received which can be summarised as follows:

- I am objecting as the planning delegate for KLWNBUG the Norfolk and Fens Cycling Campaign on transport grounds, due mainly to the "rat run" through route, but also substandard layouts on the junctions with Morston Drift.
- New statutory instructions were issued by the Department for Transport on 9 May 2020 requiring councils to prioritise mass transport, walking and cycling on some routes into town centres. The Nar Valley is already such a route, with the popular Nar Valley Way walking route, a cycleway from KLIC to the town centre, and buses in the northern part of the valley. Creating a through motoring rat run on this mass transport and active travel route would be the opposite of what the councils have been asked to do, which would risk a poor assessment by Active Travel England in future, which would reduce the councils' access to central government transport funding.
- I also have serious reservations about road safety where southern accesses/exits from the site cross the poorly-built cycleway access/exit from Central Park and believe this design is contrary to the Local Transport Plan aims to reduce casualty rates. The submitted design does not seem to recognise the presence of people cycling in both directions along the north side of Morston Drift past the site. These junctions should be revised to follow Local Transport Note (LTN) 1/20 Cycling Infrastructure Design.
- The applicant's agent's argument that previous approvals featured a through road don't seem material because the application is being considered now and should be considered under the current planning framework and statutory instructions, not the ones from 2007 or 2011 when outline permission was last granted.
- I suggest an emergency-access gate or bollards as a minimal intervention to reduce the required design changes and impacts, while still preventing creation of a rat run.
- I object to the current plan and ask you to reject it because the proposed through road is directly contrary to the councils' statutory duties under the Traffic Management Act 2004 section 18 to follow the DfT instructions in this case and these plans do not comply with the current National Planning Policy Framework paragraphs 102(d), 104(c) and (d), 110(a), (b) and (c); Local Transport Plan policies on Travel Choice, Casualty Reduction and Access to Town Centres; and Borough Core Strategy Police CS11 Transport. Please reject it until these concerns are addressed.

**Norfolk County Highways:** Whilst LTN 1/20 does suggest encouraging safe use of existing roads to through traffic, Manual for Streets (which has not been superseded) also recommends new developments incorporate linked roads to improve permeability and to avoid the creation of unnecessary cul-de-sac. Whilst this estate will create a through road with the developments to the north and west between the Wisbech Road traffic signals and Morston Drift, the alignment of the residential estate road compared with the alternative routes is unlikely to result in it becoming an attractive rat-run for traffic not living on the residential estates it serves.

Additionally, the access into this development from Morston Drift already exists and is not included within this planning application for consideration. Also, the path on the north side of Morston Drift is not a shared use foot / cyclepath, therefore the junction into the development would not need to consider cyclists crossing it. Notwithstanding this last point, both Morston Drift and the site access road are within a traffic calmed 20mph zone and therefore subject to relatively low vehicle speeds and despite the access road being a continuous route to neighbouring developments, will also be subject to relatively low traffic volumes. As a consequence, it would be expected that cyclists within this residential development could safely ride on the carriageway.

Therefore, the County Council could not substantiate a highway related objection to the proposed layout, notwithstanding the publication of the recent Government guidance LTN 1/20.

**Assistant Director's comments:** In relation to Cllr Ryves comments, as advised by the Assistant Director for Companies and Housing Delivery, to increase the use of further energy efficiency steps for this site would mean that the site would become financially unviable. It is therefore necessary to weigh energy efficiency of the scheme in the planning balance along with financial considerations. In this case it is considered that appropriate energy efficiency measures have been incorporated into the proposed development that accord with local and national planning policies. Furthermore, it is important to note there is extant approval for residential development of the site which incorporates less energy efficiency measures.

With specific reference to EV charging points, as contained within the Officer's report electric charging points are proposed for 31 of the units. It is not possible to provide them for all properties, only for those where the parking space for the plot is immediately adjacent to the wall of the dwelling.

In relation to the objection made by a third party, the matters raised have been covered by Norfolk County Highways response above.

#### **CORRECTION:**

The 6<sup>th</sup> bullet point on page 14 of the late report should be removed, and replaced with the following:

- **People should be encouraged to travel to Lynn through Hardings Way on foot, by cycle or bus.**

#### **AMENDED CONDITIONS:**

Amend conditions 3 and 10 as follows:

3. Condition: The approved Remediation Strategy must be carried out in accordance with its terms and in accordance with a timetable which shall have first been submitted to and approved in writing by the Local Planning Authority prior to the commencement of any development. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. As part of verification, soil assessment criteria must be reviewed in light of current best practice. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out, including ground gas protection measures must be produced, and is subject to the approval in writing of the Local Planning Authority.

3. 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.

10. Condition: All soft landscape works shall be carried out in accordance with the submitted drawing 'Landscaping Plan – Rev 2' unless other agreed in writing by the local planning authority. 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.

10. Reason: To ensure that the development is properly landscaped in the interests of the visual amenities of the locality in accordance with the NPPF.

**Item No.** 8/2(a) **Page No.** 9

**Agent:** The following supporting statement has been submitted:

This application seeks to add a basement to an existing permission. The dwelling was granted permission in 2015 and the construction has started and can be constructed as approved therefore the house needs to be treated as an existing dwelling.

The applicants Vanessa and James purchased the property last year and will be using the dwelling as their main residence. This has become even more important to them as a family following the recent pandemic. As it stands the dwelling has no attic or storage space so to avoid adding any additional rooms externally it was decided to add a basement for storage and TV room. The ground conditions are good in this area for such a construction, a basement was constructed on the property next door. The construction programme of the basement has been discussed and agreed with both adjoining neighbours to minimise impact.

The only reason this Variation application had to be submitted is because the property was within an AONB and the only reason we find ourselves at committee is because of a Parish objection. The Parish Council object because it does not accord to their policy for new dwellings. It is important to note that this dwelling should be treated as an existing dwelling and that the basement cannot be used as additional bedroom space because of building regulations. The Parish council have been inconsistent with their responses they supported the addition of greater size to the dwelling known as Brecklands knowing that this dwelling was not being occupied as a main residence. We strongly feel that this application should be approved and will be appealing if it is refused.

**Cllr Ryves:** I am not sure where planning permission was given for a property of the same visible size. Where would I find this? i.e. where is the permission already in place ?

If so can you explain why a permission given in sept 2014 for an amendment to reduce the no. of dwellings to 2 is seen as a valid permission for a dwelling of this size.

The 2014 permission was for a three year period and whilst one property on the site was completed has any work been commenced within the three year grace period for this dwelling? This would seem to mean that if a scheme is approved and only one part of the scheme proceeded with, then other parts of the scheme are deemed to have satisfied any time based requirement and cannot be challenged by the community even where that community has established a Neighbourhood Plan which in the face of it would compel rejection of this application.

I would also like to view the Inspectors prior report please.

**Assistant Director's Comments:**

Response to Cllr Ryves: The history of the site is set out in the report. Planning permission ref:14/01681/F approved 2 dwellings on the site, one of which has been completed. The 2nd dwelling is of identical size to that approved under ref: 14/01681/F apart from the subterranean basement which this most recent application proposes.

The 2nd dwelling approved under ref:14/01681/F is still to be completed. This could be completed at any given time in the future because the permission (14/01681/F) has already commenced and the conditions on the planning permission state that development should commence within 3 years (which it has) but there is no end date in which the development could be completed. Planning permission 14/01681/F is therefore still extant. This is the legal situation and therefore constitutes a material consideration which officers have given significant weight.

When application 14/01681/F was considered the Neighbourhood Plan policies were not in place and the Parish Council supported the application.

A copy of the appeal decision for application ref: 08/00310/F can be viewed via the Public Access system on the Council website under the application reference number. However, given the history of subsequent approvals and extant consents, the historic appeal decision is no longer considered to be relevant.

**Item No. 8/2(e) Page No. 42**

**Third Party: ONE** additional letter of **OBJECTION** received stating the following comments, summarised as follows:

- Upset about recent article stating most likely will get given the go ahead when objectors are outnumbered 2/1;
- Letters of support are most likely from people who do not have to deal with ongoing traffic issues to access their homes;
- Traffic, congestion and highway safety - residents having to wait for cars to move out of their way, regular issues with people opening car doors as vehicles pass, one side of the road regularly blocked by parked cars causing safety issues with vehicles passing the shop on the wrong side of the road;
- Whilst the majority support the application and the residents appreciate the butchers, the traffic issues cause road rage, highway safety concerns and congestion on a road that should not be heavily congested.

**Cllr Joyce:** Requests clarification on the objectors' comments within the report.

**Assistant Director's comments:** The Committee Report currently reads as follows-

**13** letters of **OBJECTION**, stating the following comments:

- Traffic and Parking, Congestion and impact on highway network
- Outgrown premises
- More deliveries would be required and impact on highway
- Noise and disturbance from freezers on site

In response to a request for clarification by Cllr Joyce, the first bullet point 'traffic and parking, congestion and impact on highway network' can be expanded further as below:

- Insufficient parking for staff and customers currently and the extension will make the situation worse
- Staff park in neighbouring residential streets, blocking access to private driveways (on Hare Road and Harrow Close)
- Neighbour amenity issues as a result of the parking along residential streets
- Highway safety concerns for vehicles and pedestrians as a result of the parking issues

- HGV deliveries cause blockages to the highway and with the extension to the building coming forward in the plot, this will exacerbate the situation.

No additional staff are proposed as part of this proposal; it is a rationalisation of the existing premises. Further, this application cannot be used to resolve an existing parking problem in the locality. However, the issues raised will form part of the discussion at Planning Committee.

**Item No. 8/2(f) Page No. 51**

**Third Party: ONE** letter of **OBJECTION** has been received which can be summarised as follows:

As I am sure the Borough is very much aware through reports from the Police, Fire Service, Ambulance, your own departments and letters from residents, that the Sibelco sand extraction sites have become a major problem of Anti Social Behaviour etc. post extraction.

Therefore I am extremely surprised that the Borough has no objection, comment or requested conditions for the aftercare of this site. Please see below my submission/objection to Norfolk County Council for the Planning Application FUL/2020/0021 Sibelco South Mintlyn {SIL 01} which has been posted on their planning web site for information and consideration.

Furthermore I would like to record that since my submission a further drowning has occurred in the Bawsey Lake and an 'Illegal Rave' with some 70 individuals took place in Holt House Lane, Ashwicken / Leziate last Saturday/Sunday {now 10 days ago} in the small hours until the Police brought it to a close at about 3am:

There has been increasing public awareness of the increasing problems of:- Anti Social Behaviour {ASB}, drinking, fires, camping etc year on year around the lakes formed as result of silica sand extraction. The Police commissioner, local Police, Borough & Parish Councils, Fire brigade, Ambulance, local Councillors and MP's have all been involved in an effort to find a solution to the problems created by Public access to the abandoned workings. A Public Service order preventing any motor vehicle from using the road {track} which runs from the B1145, Sandy Lane along the northern boundary of the SIL 01 site to Station road Leziate, was considered {May 2017} but no final conclusion reached. This road is recorded on the NCC Highways and Public Rights of Way as a Maintained Unsurfaced Road. However, in practise it is very uneven and inaccessible to most emergency vehicles for most of its length. It does however, provide access for 4x4s etc and their occupants to use the remote areas for ASB etc. It also provides an excellent opportunity for the dumping of trash. It needs to be closed.

Examination of the Application documents provides very little information on the extent and quality of the proposed aftercare. I have a number of specific concerns:-

- During extraction the construction site will be separated by 1.8m anti-climb fencing from the Northern boundary including RB8 which will remain open to the public encouraging ASB.
- It would appear from the Restoration Master Plan that at the conclusion of the extraction the whole site will be reopened to the public due to the removal of the 1.8m anti-climb fencing around the construction site. However, this is contradicted see 3.34 'Aftercare and After-uses' which states 'It is not proposed that any additional public access be provided within the application area' with no fencing how would this be prevented.
- A goose-proof fence is to be erected around the newly formed lake at the water's edge {MOD required} –what height will this be and how is it to be maintained and resist ASB in the long term.
- What provisions have been included to manage the lake water quality.
- HM Land Registry NK197448 covers Sibelco's sale {1997} of nominally 7 hectares of highly valued grazing land in the SW corner.
- Post extraction the document requires the erection of a stock proof fence along its Northern boundary, how is this compatible with the other provisions when it would go through the middle of the lake and is not included in the Restoration Master Plan.

- Since the works effectively destroys this separately owned grazing farm land, where does the aftercare responsibility lie.
- Who will be responsible in perpetuity for the aftercare of the whole site, and who will responsible for any enforcement actions necessary.
- Will there be a fund setup to provide a suitable level of aftercare for the whole site, including any subsequent owners.

**Leziate Parish Council:** Thank you for your email regarding : Planning Committee notification - 9 September 2020. The Leziate Parish Council had sent in their objections in July. Therefore, not sure why the email you sent out states “no objections”. We are still awaiting a reply from Mr. Nick Johnson. Could you please confirm that our objections are recognised and acknowledge receipt of this email as a matter of urgency?

**Cllr Ryves:** As I recall the Borough expressed a desire to prevent extraction where trees would be destroyed as part of the response to extraction plans at Shouldham. How is this reflected in this proposal and is any mitigation for tree loss proposed?

**Assistant Director’s comments:** The representations made by a third party and Leziate Parish Council were originally sent to Norfolk County Council, the determining authority, but not the Borough. The Borough Council is a consultee only on this type of planning application therefore the objections and comments raised will be considered by Norfolk County Council in their determination of the application. A response has already been sent directly to Leziate Parish Council to explain that the Borough Council as consultee can only state whether they Object or have No Objection.

In response to Cllr Ryves comments, each application must be considered on its own merits. The loss of trees would need to be balanced against any other benefits, in this case the need for construction sand, the creation of jobs etc. as set out in the report. More details can be viewed on the Norfolk County Council website within Appendix D: LVIA of the Environmental Impact Assessment. Section 7 advises the following in relation to Landscape Mitigation:

7. Proposed Mitigation and Residual Effects  
7.1 Landscape Mitigation

The proposed restoration scheme for the application area is shown on Drawing 60471763-MSQ-008.

The scheme comprises a new lake of circa 8.94 hectares, circa 6.16 hectares of surrounding grassland / heathland and an area of retained geological exposure on the shoreline of the lake. This combination of habitats, alongside additional management measures for habitat retention and enhancement elsewhere within the application area, represents an overall Net Gain in biodiversity (see Appendix C to the ES). The restoration design has been developed through liaison with ecology specialists in order to provide appropriate areas of habitat creation with respect to target species. The restored land will be managed for 5 years following restoration, to ensure successful establishment.

New habitats to be provided as mitigation planting or landscape infrastructure within the application area would be partially mature by year 10 and contribute to a reduction in effects on character and visual amenity. They would also accord with local and national planning policies and objectives relating to landscape restoration and improvement of condition.

**Item No. 8/2(i) Page No. 72**

**Agent:** Submitted a further statement in support of the application on the following grounds (summarised):

- Full permission was granted on Appeal on 17 March 2017 and the permission was implemented in April 2019. The principle of the development has been established but the approved design was not fit for purpose – does not respond to the characteristics of the locality and does not provide practical accommodation to suit the changing needs of the family;
- An alternative design has been submitted and agreed by all (including the Planning Department) which is more sympathetic and responds to the character of the locality.
- Regarding the curtilage boundary line, no mention was made on the previous application (18/0512/F) for an alternative design and it is not raised as a material planning consideration in the officer report. In the Inspector's decision for the approved scheme, it is acknowledged that the curtilage has been modified but does not think that the curtilage issue is a material consideration. During the pre-application discussion for the current application, the boundary line proposed was discussed and found to be acceptable in principle by the planning officer. Thus, it is concluded that both the Inspector and the Council does not consider the position of the southern boundary to be a priority.
- The current proposal suitably addresses all issues cited in the relevant previous appeal decisions.
- The proposal is a high performing energy efficient building, highly insulated and designed to Passivhaus Standards, incorporating solar PV panels and a ground source heat pump.

**Third Party: ONE** letter has been received making the following comments:

The short hedge referred to by Mr R Bertram was originally the full length of the domestic curtilage. It was shortened by the previous occupants. The appellant then removed the remainder. This action has since made it less obvious as to the original location, but it was in line with the high wall and the walnut tree. In conclusion the house should be within the domestic curtilage, and not the domestic curtilage moved to accommodate the house.

**Assistant Director's comments:** The issue of curtilage is addressed in the Officer's report to committee and the previous appeal decisions and site plans have been appended to the Officer report within the committee agenda. Although the current proposed curtilage is slightly wider than that previously approved, it is also slightly shorter in length. Therefore taking into account the history of the site it is considered on balance that the slight change is acceptable and would maintain the existing context and character of the area in accordance with Policy CS08.

Condition 10 secures both hard and soft landscaping including the planting of the southern boundary hedge.

**Item No. 8/2(j) Page No. 104**

**Environmental Quality:** We required full conditions on the previous outline application as further work was needed to characterise the site. It was suspected that much of the site previously contained a pond which may have been infilled. The Swann Edwards report, originally submitted with the outline application, was for screening purposes and lacks detail. However, this application also includes a geoenvironmental desk study report (Goldfinch Env, Nov 2019).

The desk study reports on documentary research and a site walkover survey. No potential sources of contamination were identified and the former pond area is not reported to have been in-filled with hazardous material. The report does not identify any unacceptable risks from land contamination nor recommend further investigation. The report's conclusions are reasonable but I agree that a watching brief will be required in case of any previously unsuspected contamination. I recommend the following condition and informative:

**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 by 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 by the Local Planning Authority.

#### Informative

The proposed development will include the replacement of the existing building which could contain asbestos materials. The Control of Asbestos Regulations 2012 (CAR 2012) require that suitable and sufficient assessment is carried out as to whether asbestos is or is liable to be present before demolition or other work is carried out. CAR 2012 requires that a suitable written plan of work must be prepared before any work is carried out and the work must be carried out in accordance with that plan. If asbestos is not managed appropriately then the site may require a detailed site investigation and could become contaminated land as defined in Part 2A of the Environmental Protection Act 1990.

### **AMENDED CONDITIONS**

Given the comments raised above, it is recommended that *Conditions 10 – 13 inclusive as per Pages 117-8 be deleted, and insert new Condition 10* and associated reason as follows:

#### 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 current best practice, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing by 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 by the Local Planning Authority.

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.

Plus informative note to be added to decision notice.