

Parish:	Burnham Norton	
Proposal:	Part retrospective application for engineering works to improve access to the field, replacement agricultural gate and fence	
Location:	Land North of Tower Road Burnham Norton King's Lynn Norfolk PE31 8JB	
Applicant:	Mr Nigel Marsh	
Case No:	21/01376/F (Full Application)	
Case Officer:	Connor Smalls	Date for Determination: 22 October 2021 Extension of Time Expiry Date: 11 January 2022

Reason for Referral to Planning Committee – Referred by Assistant Director.

Neighbourhood Plan: No

Case Summary

This application proposes, part retrospective, engineering works (the laying of hardcore) to improve access to the field, a replacement agricultural gate and fence. The proposal has been amended since its original submission to accord with the Local Highway Authority's requirements which includes an 8m setback for the gate and the removal of a pedestrian stile.

The site is located within Burnham Norton, set within open countryside with the Listed Mill complex to the North along with Burnham Overy Mills Conservation Area.

The site falls within the Norfolk Area of Outstanding Natural Beauty and is in close proximity to the North Norfolk Coast SPA, Ramsar and SSSI sites.

The application site has recent enforcement history regarding the proposed change of use of the land to a campsite. This is currently prevented by a planning injunction which prohibits camping and development in association with that use, without the necessary permissions in place.

Key Issues

- Principle of Development
- Enforcement History
- Form and Character and impact on the AONB
- Highways Safety
- Impact on Protected Species and Designated Areas
- Impact on Heritage
- Other Material Considerations.

Recommendation

- A) **REFUSE**
- B) Enforcement action be authorised to secure the removal of the area of hardcore already laid on site.

THE APPLICATION

This application seeks permission for the retrospective engineering works already undertaken to lay hardcore creating an improved access. Further, the application seeks permission for a replacement agricultural gate and new areas of fencing.

The proposal has been amended since its original submission; the address and description have been updated and flood risk and tree impacts have been corrected. The Local Highway Authority has required an 8m setback for the gate and the removal of a pedestrian stile.

The site and existing dwelling are located within the Parish of Burnham Norton, set within open countryside. The Listed Mill Complex is located to the north of the site along with the Burnham Overy Mills Conservation Area.

The application site falls within the Norfolk Area of Outstanding Natural Beauty and is in close proximity to the North Norfolk Coast SAC, SPA and Ramsar, SSI sites and the Wash and North Norfolk SAC.

SUPPORTING CASE

None received at time of writing.

PLANNING HISTORY

QB-2021-002656 Injunction in place until 31 May 2022

RESPONSE TO CONSULTATION (Summarised for clarity)

Parish Council: OBJECT:

- The site is currently under an injunction.
- Inaccuracies with the application form, address and elevations.
- Parish objects to change of use on the site to create a campsite.
- These works are plainly intended to make the site better suited to the proposed camping use as there can be no other reason for making the vehicular access so wide or in providing a pedestrian stile.
- Unacceptable impact upon highway safety as set out in NPPF 1 11. The location of the access onto the busy coast road, A 149, with inadequate sightlines, is quite inappropriate for the traffic likely to be generated by a camp site.
- The new access would detract from the landscape and visual amenity of the AONB at this point through the use of a significant area of compacted hardcore and its width which is out of character with the other field accesses in the vicinity of the site.
- The new and unsightly access would adversely affect the setting of the nearby listed buildings for similar reasons.
- The proposed access would facilitate year round vehicular use of the meadow whereas in agricultural use there was only infrequent use of the access and then in the drier months of the year (April to October). The increased vehicular traffic on site would be likely to cause compaction of the soil and be harmful to it as marshland and its wildlife interest generally.

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Highways Authority: NO OBJECTION

There are no changes proposed to be made to the roadside verge between the carriageway and the site, as such this would do little to improve the access from a highways perspective. The visibility photographs clearly show obstructions to emerging visibility in both directions and the requirement for a derestricted road would be 215m each way from a 2.4m setback which is clearly not achievable.

Nothing will be done to the highway verge/crossover, leaving it unmade and still unsuitable for any increased use above that currently permitted ie grazing.

The new gate is acceptable whilst the frontage fence would continue to restrict emerging visibility to the east, due to the height of the posts, visibility is already restricted by existing trees/vegetation.

What is proposed would make the field access no worse than existing, as such I cannot see any valid reason to resist, however I would seek to remove permitted development rights from the site, In the interests of highway safety, if considered to be appropriate.

Natural England: COMMENT

The land on which this development proposal is located has been the subject of a court injunction. It is also in close proximity to the designated North Norfolk Coast SAC, SPA and Ramsar and the Wash and North Norfolk SAC and within the Norfolk Coast Area of Outstanding Natural Beauty.

Intensification of activity would not be consistent with the historic use of the land in the Burn valley and potentially damaging to the interests of the designated sites. The development footprint is situated in an unimproved narrow valley with a history of grazing. The valley is contiguous with the European designated site and is functionally linked.

The application documents submitted request planning permission for engineering works to improve access to the site and replacement of an agricultural gate, style and fence. Natural England are concerned that this could facilitate an intensification of use at a later date. The proposed hard standing created from recycled hardcore could also potentially facilitate an intensification of use and we highlight that the extent and footprint is not explicitly clear within the application. We also note that such improvements to the gateway and hard standing have not been required historically to facilitate the historic and sympathetic use of the land.

RSPB: Comment:

The RSPB is very concerned about the impact that this and any future planning proposals, such as camping and any associated facilities at this site, will have on sensitive wildlife in the area as a result of habitat destruction and species disturbance. Protected species using the area or within close proximity include breeding bittern and roosting marsh harrier. In addition, we have concerns over waste water management and the impacts on the nearby North Norfolk Coast SPA, Ramsar and SSSI sites.

Such a development would also be at odds with the area's green recovery and AONB objectives for the natural environment. Due to the proximity of the application site to internationally protected sites, any further development applications should be subject to Habitats Regulations Assessment (HRA).

We would advise scrutiny at this stage to ensure the terms of the current injunction have not been broken and that the landowner appreciates the level of assessment required for any future development proposals.

Conservation Officer: NO OBJECTION

Looking at this application only, and the current use of the land as agricultural, the installation of a new timber gate, fence and stile, will not cause any harm to the setting of the listed mill complex, or the Conservation Area.

Internal Drainage Board: NO OBJECTION

Consent is required regarding IDB bylaws which are separate to the planning process.

Environment Agency: NO COMMENT

Environmental Quality: NO OBJECTION

The site of the above planning application is an agricultural field with land surface generally natural and there appears to be no contamination legacy as shown on BCKLWN historic archives.

In addition, the existing use is currently as an access to the field and the land /site is not known to be contaminated or suspected of any contamination either in part or whole as stated on the application form. In view of this, we have no objection and no further observation may be required with regards to contaminated land assessment.

Arboricultural Officer: NO OBJECTION

REPRESENTATIONS

75 Public OBJECTIONS for the following reasons:

- The application form stated that works hadn't started. However, works had already started on site before the current injunction prohibited this.
- *Incorrect Address.
- Incorrect Plans
- *Any works carries out should be removed.
- The site has got priority species present and there is a designated site (SSSI) with important habitats on land adjacent to application site.
- *Adverse impact on protected species and sensitive habitats.
- The proposed access is not necessary for the use of the land as a grazing field.
- Previous gate was not rotten or degraded and didn't need to be removed.
- New entrance would encourage entry onto the A149 and increase the risk of traffic accidents. Hard-core area could provide area for parking on the roadside to the detriment of highways safety.
- The proposal is unsightly, overly large and would harm the Area of Outstanding Natural Beauty (AONB) and nearby Conservation Area.
- *This application is clearly part of the applicants aim to use the land for a campsite. This would create a threat to the natural environment, create ground contamination, fire risk, pollution, interruption of nesting, loss of flora and fauna and visual impact on unspoilt landscape.
- Widespread local opposition to use of land as a campsite.

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- This work will facilitate the use of land as a campsite, something it is still being advertised for.
- There is a pedestrian gate but there are no paths on A149.
- Quiet enjoyment of surrounding by nearby residents will be impacted.
- The applicant is seeking to circumvent the planning process.
- Flooding and drainage issues on site and impact of the application.
- Impact on trees
- Work not carried out as required by the Injunction on the site.
- An Article 4 direction should be applied on the area.
- No local consultation.
- *Other developments on the land.

The latest Plans:

- In consistencies with the plans and elevations, it is also unclear as to the exact location of the gate and fence. It is also not clear the exact area of hardstanding.

LDF CORE STRATEGY POLICIES

CS12 - Environmental Assets

CS01 - Spatial Strategy

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM15 – Environment, Design and Amenity

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.

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 are:

Principle of Development

Enforcement History

Form and Character and impact on the AONB

Highways Safety

Impact on Protected Species and Designated Areas

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Impact on Heritage
Other Material Considerations

Principle of Development

This application is located outside of a development boundary and is therefore considered to be in the countryside in both physical and policy terms. Development falling within the countryside will be more restricted and “the strategy will be to protect the countryside for its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, and its natural resources to be enjoyed by all.”- Policy CS06, Development in Rural Areas. Low level development will be acceptable where it is consistent in scale to its setting and does not adversely affect the surrounding area or any neighbouring amenity. As this development proposes a wooden fence and gate with a small area of hardcore, it is considered that the proposal accords with this policy. As such, the principle of sensitively improving an access may be supported subject to considerations of the sites context and compliance with local and national policy, as well as consideration of other material considerations that are discussed below.

Enforcement history

This site is subject to very notable enforcement history regarding a proposed change of use of the land to a campsite as well as associated development; this includes the partial laying of hardcore which forms part of this planning application. This change of use of the land is currently prevented by a legal injunction sought by the LPA; this prohibits development in association with that use proposed use, without the necessary consents being in place.

The injunction was sought and granted due to concern over use of the site for a campsite, on the locality. This included the impact on the Norfolk Area of Outstanding Natural Beauty (AONB) and Heritage Coast, impact upon the European Designated Sites and impact on Highways Safety.

Form and Character and impact on the AONB

Based on the Landscape Character Assessment of the Borough, the site is contained within the landscape area “Overy Creek” within the Norfolk Area of Outstanding Natural Beauty.

The Character Assessment states that the Inherent Landscape Sensitivities include:

- Wide open panoramic views across the salt marshes and the ever-changing seascape.
- Intricate network of inter-tidal habitats.
- Strong sense of openness, with open views towards a generally undeveloped coastal skyline.
- Strong recognisable sense of place, overall.
- Predominantly isolated and rural character.

The Landscape Planning Guidelines states that proposal should:

- Seek to conserve the intricate network of inter-tidal habitats and recognisable landscape pattern.
- Seek to conserve the isolated and rural nature of the landscape.
- Seek to conserve the open nature of the mosaic of saltmarsh, mudflats and other inter-tidal habitats.
- Seek to conserve the overall strong sense of tranquillity and remoteness throughout the character area.

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This application proposes a gate with a setback of 8m from the roadside which will be 4.8m in width. 8m of fence will be present from the gate to the roadside and then a stretch of around 5m of fencing will run parallel to the roadside. This area of fencing is located to the south/east of the wider site which is currently a grass field. The area of land in front of the gate leading to the highway is hardcore which has already been laid on site. The hardcore has been confirmed to only be laid on this area (measuring 4.8m by 8m), but this is some 38.4 square metres, and this will be visible and contrast with the grassed nature of the site and area in general. This is considered to be an extensive area of hardcore which is visually excessive and represents a development above and beyond that necessary for a simple rural agricultural gate and access to a field. The overall size and scale of the development therefore appears excessive in scale compared to the agricultural use of the land, previous gate arrangement and the immediate locality.

The large area of fencing, gate and hardcore would not conserve the isolated and rural nature of the landscape, nor conserve the open nature of the locality or conserve the overall strong sense of tranquillity of this part of the AONB.

For reasons outlined above, the proposal is considered contrary to Policy CS06 and CS08 of the Core Strategy as well as DM15 of the Site Allocations and Development Management Policies Plan.

Highways Safety

NCC Highways raised no objection to the application.

Based on highways comments it can be determined that the proposal is only suitable for the current use of the land as an agricultural field for grazing. This proposal would not be suitable for any intensification of the access. As such, whilst NCC Highways raise no objection the provision of this hardcore area and large gate and fence, it is unnecessary for the present purposes of managing the land and will see no highways safety benefit compared to the previously existing arrangement.

Impact on Protected Species and Designated Areas

The site is in close proximity to the Norfolk Coast SPA, Ramsar and SSSI sites.

Natural England and the RSPB have raised concerns around the use of this land and the wider ecological impact which is clearly based on the enforcement history of the site.

Concerns are also raised by Natural England and the RSPB on the potential impact of the scheme and future development and seek to clarify the area of hardcore. This has been clarified as detailed and re-consulted where no further comments were given.

Impact on Heritage

The application site lies in close proximity to the Burnham Overy Mill Conservation Area and the Listed Mill complex. As such, the site is close to sensitive heritage assets. The Conservation officer raises no objection for the proposed development. It is considered that the wooden fence, gate and hardcore are of a significant enough distance away from the complex, so as not to have a detrimental impact on designated heritage assets.

Other Material Considerations

Flood Risk

The proposal site is within Flood Zone 3. The proposal would be for a gate, fence and hardcore only and as stated, will not facilitate an increase in a more vulnerable use. Therefore, there will not be an increase in flood risk either on the site or in the wider area as a result of this development only.

Parish Council Comments

All matters raised around the application form have been addressed and subsequently re-consulted upon on receipt of the amended forms

The previous condition of the fencing on site is not part of the consideration for this proposal.

The area of hardcore has been detailed above.

Comments are addressed in the above officer's report and use of the land as a campsite is not the consideration of this application, nor is the future strategy for the site.

Public Objections

All issues with the application form were resolved and the application re-consulted.

All plans have been corrected and the area of hard standing has been confirmed as detailed above.

Regarding the request that works already carried out(hardcore) should be removed, this forms part of the application and the area of hardcore will be explicitly specified. It is also considered that enforcement action can be taken on the already laid hardcore.

Regarding widespread local opposition to the use of land as a campsite, this application is not for that development.

The pedestrian stile has been removed from the scheme.

The Arboricultural Officer has confirmed no objection regarding impact on trees.

Regarding work not carried out as required by the Injunction on the site, this is not a matter for this planning application.

An Article 4 direction being applied on the area is a separate consideration to this planning application.

Regarding local consultation, this planning application has provided the opportunity for extensive public consultation.

CONCLUSION

To conclude, whilst a wooden gate, fence and area of hardstanding forming an access may be considered smaller scale development in many situations, each case must be determined on its own merits and the context of the locality taken into account.

The site falls within an extremely sensitive area within the Norfolk Coast Area of Outstanding Natural beauty. It is located directly off the A149, and is prominent. The areas of fencing, the gate and the large area of hardcore proposed (almost 40 square metres), would not conserve the isolated and rural nature of the landscape, nor conserve the open nature of the locality or

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the overall strong sense of tranquillity and remoteness. This is considered to be contrary to both local and national policy and as such, the proposal should be refused.

RECOMMENDATION:

(A) REFUSE for the following reason

- 1 The nature and scale of the large area of fencing, gate and extensive area of hardcore proposed, would not conserve the overall isolated and rural nature of the landscape, nor conserve the open nature of the locality or the overall strong sense of tranquillity and remoteness in that area. The proposal would therefore represent an incongruous addition to the locality harming the special character of the Area of Outstanding Natural Beauty, and the intrinsic character and beauty of the countryside. This is considered to be contrary to Policies CS06 and CS08 of the Core Strategy, DM15 of the Site Allocations and Development Management Policies Plan, and paragraph 176 of the National Planning Policy Framework.

(B) That ENFORCEMENT ACTION be authorised to secure the removal of the area of hardcore already laid on site.