

Parish:	Brancaster	
Proposal:	OUTLINE APPLICATION SOME MATTERS RESERVED: Demolition of existing dwelling and construction of up to 7No. dwellings (net increase of 6)	
Location:	Cherry Trees 12 Town Lane Brancaster Staithe King's Lynn	
Applicant:	Client of Vertex Architecture Ltd	
Case No:	20/01672/O (Outline Application)	
Case Officer:	Mrs N Osler	Date for Determination: 8 January 2021 Extension of Time Expiry Date: 8 September 2023

Reason for Referral to Planning Committee – Called in by Cllrs Lawton and de Winton

Neighbourhood Plan: Yes

Case Summary

Outline permission with all matters reserved for future consideration, except access, is sought for up to 7no. dwellings following demolition of the existing property (net gain of 6 dwellings.)

Access would be from the eastern part of the site onto Town Lane, an unadopted gravel lane that ultimately joins the A149 to the north of the lane.

An indicative layout has been provided showing how the 7no. dwellings could be arranged on site.

The site lies within the development boundary for Brancaster Staithe, a Joint Key Rural Service Centre with Brancaster to the west and Burnham Deepdale to the east as categorised in the Settlement Hierarchy of the Core Strategy (CS02.)

The site lies within the Area of Outstanding Natural Beauty (AONB) and has a Scheduled Monument (SAM) to the west (Roman Fort (Branodunum)). The area is Flood Zone 1 (low risk.)

Key Issues

Principle of Development
Form and Character and Impact on the AONB and SAM
Highway Impacts
Residential Impacts
Crime and Disorder
Other Material Considerations

Recommendation

A) APPROVE subject to conditions and the satisfactory completion of a S106 Agreement to secure affordable housing and GIRAMS payment within 4 months of the date of this committee resolution.

B) REFUSE in the event that the S106 Agreement is not completed within 4 months of the date of this committee resolution due to the failure to secure affordable housing and GIRAMS payment.

THE APPLICATION

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SUPPORTING CASE

NONE received at time of writing report.

PLANNING HISTORY

20/00091/PREAPP: INFORMAL - Likely to refuse: 16/10/20 - PRE-APPLICATION ENQUIRY WITH CONSULTATIONS AND WITH MEETING: Outline Application: Proposed development of 9 dwellings following demolition of existing house and outbuildings.

RESPONSE TO CONSULTATION

Parish Council: NO OBJECTION but do raise concerns:

02.08.2023: The Parish Council has concerns over the density of the site and the ability of larger traffic to turn. There was also a request for the maximum amount of “eco-friendly” provision (solar panels, water collection etc.)

Given the size of the site and the Parish Council's concern over the reserved matters being almost a "given" once outline permission has been granted it welcomed Cllr de Winton's offer to call this application in for more detailed consideration.

10/12/2021: Cllrs wish to OBJECT on grounds of parking, overdevelopment, the number of houses, the issues with the private road, concerns over provision of sewerage, access for service and emergency vehicles and specifically referred to Neighbourhood Plan policies 1, 2, 3 & 5.

Further they noted the concerns of Natural England, Highways and your own review panel, as well as those of neighbours and others, drawing particular attention to the comments of a third-party.

We also note the fact that Cllr Lawton has called this application in, which has our full support.

Highways Authority: NO OBJECTION

16.08.2023: I have reviewed the revised plans and there is nothing to alter my comments of 11 May 2023.

11.05.2023: The means of access to the site is via Town Lane, an unadopted, private road currently serving 21 dwellings, bringing the total number to 28.

Extrapolation of statistical data from TRICS (Trip Rate Information Computer Services) shows that a residential dwelling is likely to generate 6 vehicular movements per weekday.

If permitted the proposed development of up to 6 additional dwellings is therefore likely to generate in the region of 36 additional vehicle movements over Town Lane and onto the A149, bringing the likely daily total to 162.

Previous works at the access of Town Lane with the A149 provided a widened, surfaced access arrangement and improved levels of visibility to the west by alterations to the frontage of The Willows. However, this only addressed the situation close to the access with the A149, benefiting adjacent proposals, but not addressing the shortfalls of the track in respect to construction and service vehicles.

The extent of the highway boundaries and private frontages provide little scope to improve construction or pedestrian provision without the use of private land, which is outside of the application site and the applicant's control.

The Highway boundary is the existing rear edgings across the access, it follows the old fence line fronting Beersheba, which is now shortened and curved into Town Lane, widening Town Lane by approx. 1m.

The Willows development has softened and setback the boundaries, which were previously overgrown.

The Willows developers had a new BT chamber installed and moved a cabinet which involved trenching and then the footpath was resurfaced, possibly in favour of patching. This was outside of the planning framework and undertaken by Public Utility companies.

There is no scope to deepen the access within the extents of the highway, so without the third-party land we would be at an impasse. However, the widened access addresses previous concerns raised in relation to SHCR 07 and your Authority have indicated that any

conditions seeking improvements would not be necessary, nor reasonable, should they be sought, given the private nature of the track.

As such, whilst I could raise concerns regarding increased pedestrian footfall over loose ground along the shared private track, there would be little realistic chance of securing any provision, which is unfortunate.

Therefore, I am able to comment in relation to highways issues only, that Norfolk County Council does not wish to resist the grant of outline consent but would wish to comment at Reserved Matters Stage.

Historic Environment Service: NO OBJECTION The proposed development site is located on the eastern edge of the elements of the Roman fort and settlement (Branodunum) at Brancaster which are protected as a scheduled monument. There is potential for previously unidentified heritage assets with archaeological interest (buried archaeological remains of Roman date) to be present within the current application site and that their significance would be affected by the proposed development.

If planning permission is granted, we therefore ask that this be subject to a programme of archaeological work in accordance with National Planning Policy Framework 2019 paragraphs 199 and 189 is secured by planning condition.

Natural England: NO OBJECTION SUBJECT TO APPROPRIATE MITIGATION BEING SECURED.

We consider that without appropriate mitigation the application would have an adverse effect on the integrity of:

- North Norfolk Coast Special Area of Conservation (SAC)
- The Wash and North Norfolk Coast SAC
- North Norfolk Coast Special Protection Area (SPA)
- North Norfolk Coast Ramsar
- Other European sites designated within the Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy (GIRAMS) report and damage or destroy the interest features for which North Norfolk Coast Site of Special Scientific Interest (SSSI) has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation option should be secured:

- A financial contribution to be paid into the Norfolk Green Infrastructure and Recreational Avoidance Mitigation Strategy (GIRAMS).

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Senior Ecologist: NO OBJECTION I've reviewed the following in response to your email:

- Shadow HRA (Rachel Hacking Ecology, 04 May 2023)
- Natural England Comments (23 May 2023)
- Natural England Comments (June 22, Sept 22, Oct 22, Nov 2022)
- Ecological Appraisal (Baker Consultants, Sept 2022)

Ecology comments: The Ecological Appraisal (EA) (BakerConsultants, Sept 2022) identified several ecological receptors which will potentially be impacted in the absence of mitigation

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including hedgehogs, a common pipistrelle day roost within the bungalow (TN4) and a barn owl roost within the Boat Shed (TN7). Other potential impacts are identified for which mitigation has been recommended in Section 6.

Conditions/Informatives:

1. A licence will be required to facilitate the demolition of the bungalow. Please condition the requirement for this licence to include text asking for the licence to be in place prior to any works to the bungalow (rather than pre commencement of works).
2. A known barn owl roost will be lost and should be compensated by the installation of a replacement roost features. This should be conditioned and include the requirements for type/location details to be submitted prior to commencement of works on TN7.
3. Hedgehog are suspected to be present on site. It's not clear to be what the boundary treatment will be where plots will be comprised of two or more impermeable boundary features at least two hedgehog holes should be included to prevent habitat severance.
4. Please condition the mitigation measures outlined within Section 6 of the report which does include hedgehog holes and barn owl boxes which may preclude the requirement for separate conditions for these aspects.
5. Please condition the net gain outlined within the Ecological Appraisal.

Habitats Regulation assessment: There are no issues with the sHRA provided by Rachel Hacking Ecology (May 2023) and I advise that we can adopt this as the record of HRA. Please secure the GIRAMS payment.

I can confirm that we should be securing GIRAMS at Outline stage. We should only secure at Reserved Matters where GIRAMS hasn't been secured at outline for some reason.

Norfolk Coast Partnership: OBJECT

28.12.2021: We believe the current proposal is overdevelopment and would prefer to see a reduced number of dwellings.

We note that Natural England has requested a HRA and suggested that enhancement is included in the proposal. We agree and would like to be assured that potential impacts to designated sites are considered and mitigated.

15.12.2021: We have no objection in principle as the site is in the development boundary but 8no. dwellings may be over-development which may impact setting and character and cause access problems on Town Lane.

A smaller scheme would be more suitable.

Housing Team: NO OBJECTION I have reviewed the amendments to this application today.

I note the applicant has reduced the number of units to 7, resulting in a net gain of 6 units. As per my previous comments the site exceeds 0.5ha and proposes a net gain of 6 units, an affordable contribution of 1.2 units of affordable housing is required. This should be delivered as 1no built unit for rent and a commuted sum of £12,000 to discharge the remaining 0.2 units of affordable housing.

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

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

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

The affordable housing mix i.e., unit types, layout etc. will need to be addressed in the reserved matters application. Whilst at this stage I appreciate that it is difficult to agree the type of affordable housing unit, i.e., 2-bed, 3-bed etc., I would recommend that, in order to best meet an identified housing need, a smaller unit i.e., 2-bed 4-person unit is provided. Please note however that housing need is not static and therefore the affordable housing mix may change as time progresses particularly if there is a significant delay in submitting the reserved matters application.

The affordable housing should be fully integrated with the general market housing in order to achieve mixed and sustainable communities in which the accommodation is tenure blind. An objection from us is likely if this is not met.

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

A S.106 Agreement will be required to secure the affordable housing contribution.

I would also recommend that the applicant contacts me at the earliest opportunity to discuss the affordable housing in more detail prior to the submission of a reserved matters application.

Historic England: NO OBJECTION As stated in our previous advice on this application (07/12/2020 and 15/12/2021) the proposed development is located at the eastern edge of the 'Roman Fort (Branodunum)' scheduled monument (List Entry Number 1003983). A c.3m wide strip along the western boundary of the application site lies within the boundary of the scheduled monument.

The revised layout moves the proposed buildings out of the scheduled monument area. This amendment would therefore reduce both the physical impact of the proposed development on the scheduled monument and its impact on the monument's setting. We recommend that other groundworks within the westernmost part of the application site, within the scheduled monument area, should be avoided or kept to a minimum to further reduce the impact of the proposals.

Any groundworks, such as drainage, landscaping or fencing within the scheduled monument part of the application site would require Scheduled Monument Consent from the Secretary of State for Culture Media and Sport. Scheduled Monument Consent is a legal requirement under the Ancient Monuments and Archaeological Areas Act 1979 (as amended) and is separate from the granting of planning permission.

Historic England has no objection to the application on heritage grounds.

We recommend that you continue to consult with your specialist archaeological advisors in relation to the potential for non-designated buried archaeological remains to be present at the site.

Your authority should take these representations into account in determining the application.

Conservation: NO OBJECTION Historic England and the Historic Environment Service have commented on the archaeology issues associated with this site. There are no other known historic assets which will be affected by this scheme, and we therefore do not wish to make any further comments.

CSNN: OBJECT

17.08.2023: I note this amended scheme is very similar to the eight dwelling proposal (a reduction in only one dwelling); I maintain that this is an overdevelopment of the site (creating a mini-estate on a otherwise mainly linear developed lane/track), and this will result in reduced amenity for future occupiers plus it will increase the existing ambient noise levels for the lane thus impacting on existing residents.

The majority of my previous comments are still applicable.

I would request the following if permission is granted:

- Restriction of the total number of dwellings to less than 7, rather than 'up to 7' as shown in the application title – 3-5 dwellings would be less impactful
- Resurfacing/upgrading of the lane/track surface to tarmac or similar (to reduce noise and dust impacts)
- On-site parking for construction workers and storage of all materials etc.
- A basic CMP to address noise, dust, vibration, waste management and lighting mitigation measures (whilst this site is for less than 10 dwellings, it is located in a tight residential area where dwellings almost completely surround the site, with known low background levels, thus a greater degree of control for the clearance/demolition and construction phases should be required), which should include showing where plant, materials, waste etc are to be stored/located, where workers vehicles will be parked, and the site hours of 0800-1800 max on weekdays, and 0900-1300 Saturdays only, with no work Sundays/bank/Public Holidays
- ASHPs
- Surface water drainage. It is particularly important that it can be proven as early as possible that adequate space within the site will be available for SW drainage – I am specifically concerned about space for drainage within plots 2 and 3 given the smaller plots and easement required for the main foul sewer
- External lighting (more likely to impact on existing residents due to the placement and orientation of the dwellings proposed; downlighters only are requested, particularly as this is an AONB)
- Acoustic grade fence or wall, 2m high, for Plot 1.

09.12.2021: I consider that the site will be too cramped to accommodate that many dwellings and the impact on the residential amenity of existing dwellings along the lane will be detrimental, particularly taking into account the other development which has occurred or is approved along the lane. Eight dwellings is considered to be an overdevelopment of the plot and will generate a noticeable increase in vehicle activity once completed, on a road which is not appropriately surfaced to prevent amenity impacts due to noise and dust. The proposal would create a mini-estate on land which was originally for a single dwelling, in a rural setting which has already increased in density to the detriment of residents. This is an area where background noise levels will be low; not only will traffic movements impact on

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residents, but the everyday living noise generated from seven additional dwellings will be noticeable, and elevated substantially should the dwellings utilise ASHPs.

I am also concerned about site surface water/land drainage, due to the proximity of a flood plain, the significant increase in impermeable areas in comparison to existing, the number of dwellings and because the site lies above a Principal Aquifer.

External lighting associated with eight dwellings would also significantly impact on the AONB and existing residents, again due to the siting of the proposed dwellings within the plot.

It is also not clear whether a refuse collection vehicle would be able to appropriately manoeuvre within the proposed site or whether a shared waste/recycling presentation/collection point would be provided at the site entrance – I recommend that the BC Waste & Recycling Officer is consulted on this proposal.

The principle of development of the site is acceptable, however, the number of dwellings proposed and their layout in a cul-de-sac form is not. As with 19/02161/O, ultimately for two additional dwellings, a reduced number of dwellings i.e., three in total occupying the site frontage would be more appropriate.

Refuse and Waste Manager: OBJECT

08.08.2023: The proposal is not accepted in the absence of a type 3 turning head at the bottom of the site adjacent to plots 6 & 7 waste collection vehicles will not enter the site. The WCA will determine the collection point as being where the development meets Town Lane. This may lead to loss of amenity to neighbouring properties and residents of this development.

Adequate arrangements have not been demonstrated and therefore I must maintain my objection.

09.12.2021: I have carefully reviewed the information provided. Until I am satisfied that the turning head provided is sufficient, I will have to object. I will require a swept path analysis.

Road construction will have to be finished in hot rolled tarmac and of either a type 3 or type 6 construction to withstand the loads from an RCV.

The absence of these details will prevent the ability to make waste collections with resulting loss of amenity.

Anglian Water: NO OBJECTION The proposed development site is in the catchment of BURNHAM MARKET Treatment works, which the outfall is located outside of Natural England's Nutrient Neutrality boundary.

The Planning & Capacity Team provide comments on planning applications for major proposals of 10 dwellings or more, or if an industrial or commercial development, 500sqm or greater. However, if there are specific capacity drainage issues you would like us to respond to, please contact us outlining these issues.

The applicant should check for any Anglian Water assets which cross or are within close proximity to the site. Any encroachment zones should be reflected in site layout.

Please note that if diverting or crossing over any of our assets, permission will be required.

Environmental Health & Housing – Environmental Quality: NO OBJECTION As previously discussed, we reviewed all the available documentary information on the site and

the screening assessment form. The concern was that there are some heaps/piles of soil or waste material seen on aerial photography, and there was anecdotal information that the site had been used a small-scale coal yard. Therefore, some more information was required on any past commercial use of the site or material/waste storage. The applicant has now submitted: PHASE I GEO-ENVIRONMENTAL ASSESSMENT Report, February 2022 by Erda Associates.

The report reviews available information on the site history, with reference to potentially contaminative uses and provides a description of the site and photographs dated February 2022.

The report suggests there is likely to be a low risk from contamination from the former use, (including a possible small-scale coal yard) but recommends a basic phase II ground investigation to further assess the potential risk to human health and controlled waters. The report also suggests that an asbestos survey and controlled removal of the existing building may be required.

The findings are reasonable, and I recommend that the further investigation and any necessary remediation be secured by the full suite of contamination condition.

As the potential for asbestos materials has been identified in an existing building, I recommend an asbestos informative be appended to any permission granted.

Arboricultural Officer: NO OBJECTION I can confirm that I have no objection in principle. I think that a modest landscaping scheme should be submitted at reserve matters stage.

REPRESENTATIONS

SIX letters of **OBJECTION** were received in relation to the amended scheme. The reasons for objection can be summarised as:

- The width of Town Lane is incorrectly shown on the plans
- Gross overdevelopment of the site; the reduction of one unit does not change this, that would result in unacceptable overlooking and overshadowing issues
- Dimensions of the dwellings are not known
- The development is more urban in nature than suburban and totally out of character for the locality
- Development in depth is not a characteristic of Town Lane
- These will be more holiday homes
- The additional vehicle traffic will cause a noise and dust nuisance to the adjoining owners due to the track being gravel surfaced
- Applicant's do not have ownership of their frontage onto Town Lane; Cherry Trees only benefits from a 12ft wide right of access along the west side of Town Lane
- Town Lane is a shared surface private road of which the applicants have no right to increase vehicular activity on
- There are already too many dwellings served by Town Lane
- Town Lane is not wide enough or of a sufficient standard to accommodate additional dwellings
- Boundary trees are not shown on the plans
- The development would endanger pedestrians on account of the lack of pedestrian provision
- Fire Risk from the density of development
- Drainage has not been fully considered
- Scant regard has been taken of the public comments made to the previous application.

- I reiterate that the revised application, by virtue of its size, accessibility, location and relationship to neighbouring properties would have an unacceptably harmful effect on the appearance and character of the surrounding area.

SIXTEEN letters of **OBJECTION** were received in relation to the original scheme. The reasons for objection can be summarised as:

- Applicant's do not have ownership of their frontage onto Town Lane. Cherry Trees only benefits from a 12ft wide right of access along the west side of Town Lane
- Town Lane is a shared surface private road of which the applicants have no right to increase vehicular activity on
- There are already too many dwellings served by Town Lane
- Town Lane is not wide enough or of a sufficient standard to accommodate additional dwellings
- The development would endanger pedestrians on account of the lack of pedestrian provision
- Compromise highway safety at the junction of Town Lane and the A149
- Overdevelopment of the site
- A pair of barn owls are resident in the old buildings
- The development would result in additional daily vehicle movements of at least 42
- The development would not enhance the AONB and would detract from it
- No provision has been made for affordable housing
- Parking on Town Lane itself is already a problem; this application will further add to the problem
- Town Lane is not accessible to pushchairs or wheelchairs and is in places not suitable for bicycles or inform pedestrians
- There has been ongoing development surrounding us for years
- I fail to see why Norfolk Highways have changed their recommendation from refusal to acceptance when nothing positive has changed regarding Town Lane
- Construction traffic should be controlled if permission is granted

ONE Neutral comment was received in relation to the original submission which can be summarised as:

- The current owners of Cherry Trees have enjoyed free use of the eastern section of Town Lane in order to access their property for at least 50 years. Others may consider whether this grants them a right of way over Beersheba and Dolphin Place property
- Cherry Trees operated as a coal distribution depot, coal being transported in and out of this commercial/industrial site on a daily basis on very large articulated and rigid bodied lorries using both sides of the lane although at the time it was at least 1m narrower than it is today
- In terms of housing density this development does not appear to contravene the current version of the Brancaster Village Development Plan, the 2020 version has not been adopted yet. It does however seem to be compliment with the newer builds along the lane, at least one of which has been squeezed onto its neighbour's boundary
- The plan appears to show a large turning area, something that remains unavailable to other properties along the lane
- As for maintenance of Town Lane it has puzzled me as to why the residents have not formed a co-operative to address road maintenance and traffic management issues.

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

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CS02 - The Settlement Hierarchy

CS08 - Sustainable Development

CS09 - Housing Distribution

CS11 – Transport

CS12 - Environmental Assets

CS14 - Infrastructure Provision

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM2 – Development Boundaries

DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

DM19 - Green Infrastructure/Habitats Monitoring & Mitigation

NEIGHBOURHOOD PLAN POLICIES

Policy 1 - Appropriate Housing

Policy 2 - Design, Style and Materials

Policy 3 - Footprint for New and Redeveloped Dwellings

Policy 4 - Parking Provision

Policy 5 - Replacement and Extended Dwellings

Policy 6 - Affordable / Shared Ownership Homes

Policy 10: Protection and Enhancement of the Natural Environment and Landscape

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

National Design Guide 2021

PLANNING CONSIDERATIONS

The main considerations are:

- Principle of Development
- Form and Character and Impact on the AONB and SAM
- Highway Impacts

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- Residential Impacts
- Protected Species and Sites
- Affordable Housing
- Crime and Disorder
- Other Material Considerations

Principle of Development

The site lies within the development boundary of Brancaster Staithe, a Joint Key Rural Service Centre (KRSC) with Brancaster to the west and Burnham Deepdale to the east.

Development Plan Policy CS02 states, in relation to development within KRSCs: *Limited growth of a scale and nature appropriate to secure the sustainability of each settlement will be supported within the development limits of the Key Rural Service Centres.* This is obviously subject to compliance with other relevant planning policy and guidance.

Given that the Local Planning Authority can evidence in excess of a 5-year supply of housing land, its housing policies are up-to-date and carry full weight.

The principle of development of the site is therefore accepted because it accords with the NPPF and Development Plan. Furthermore, there is nothing in the Neighbourhood Plan that precludes residential development within the development boundary per se.

Form and Character and Impact on the Area of Outstanding Natural Beauty (AONB) and Scheduled Ancient Monument (SAM)

When considering the impact on the AONB, the Local Planning Authority does not consider the development to be major development as defined at paragraphs 176 and 177 of the NPPF.

Paragraph 176 of the NPPF requires the scale and extent of development within the AONB, or its setting, to be limited and be sensitively located and designed to avoid or minimise adverse impacts on the designated areas, and paragraph 174 requires *protection and enhancement of valued landscapes* which includes the AONB.

Protection and enhancement of the natural environment is also a requirement of Development Plan Policies CS01, CS12 and DM15 and Brancaster Neighbourhood Plan Policies 1, 2, 10.

Location within the AONB is not the only consideration in visual amenity terms. Paragraphs 130b) and c) respectively of the NPPF require all development to be *visually attractive as a result of good architecture, layout and appropriate and effective landscaping* and to be *sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)*

This is reiterated in both the Development and Neighbourhood Plans. Development Plan Policy specifically CS08 requires development to *respond to the context and character of places in West Norfolk by ensuring that the scale, density, layout and access will enhance the quality of the environment*, Neighbourhood Plan Policy 1 requires *Development proposals to take account of the key features of views of, and within, the Area of Outstanding Natural Beauty...through careful design and sensitive layouts...*

The site runs at right angles to Town Lane and would result in development in depth, where the 'norm' for Town Lane is development with an active frontage facing the lane.

However, development does not necessarily have to replicate its surroundings, and something that differs can still be 'sympathetic' and acceptable. The test in such an instance is whether the difference results in something that is detrimental rather than simply different.

This scheme is in outline form with scale, layout, appearance and landscaping reserved for future consideration; therefore, layout is indicative only. Nevertheless, accommodation of up to 7no. dwellings on the site can only be achieved by development in depth.

Pre-application advice was sought in this regard and whilst ultimately the recommendation was 'likely to refuse' the pre-application accepted the principle of development in depth, although issues of overdevelopment, amenity and highways were raised. Pre-application advice carries no real weight in the planning balance, being informal advice only, but some consideration should be afforded it as it is the basis for the applicant's submitting this formal application for a reduced number of dwellings.

When viewed from the west across open countryside, the development would not appear incongruous, rather it would appear as a continuation in a southerly direction of existing development to the north of the site. Likewise, due to the built form on the western side of Town Lane being staggered (i.e., there is less of a strict building line on the west of Town Lane and some dwellings sit well within their plot) dwellings more centrally located within the site would again not appear out of place. When viewed from the east, from Town Lane itself, the indicative layout shows two frontage properties that would supply the characteristic active frontage onto Town Lane.

It is therefore considered, whilst not characteristic of the locality, development in depth in this instance, is sympathetic to its surrounding and would not be detrimental to the AONB. Whilst it is acknowledged that the Norfolk Coast Partnership object based on the impact on the AONB, for the reasons outlined above it is considered that development of depth of this site would preserve the character of the AONB.

In relation to density, the applicant has submitted a Density Analysis (DA) that covers adjacent sites/areas. The DA concludes that average density in the location, including recent planning permissions is 19 dwellings per ha. The density of the proposed development is 12d/ha. It would be difficult therefore to consider that the development is too dense or would constitute overdevelopment of the site.

Impact on the Schedule Ancient Monument (SAM) to the west is largely subject to maintaining a 3m wide strip along the western edge of the site. This strip must remain clear of all works including groundworks, such as drainage, landscaping / fencing. This issue cannot be fully assessed at this time given the outline nature of the application and would therefore have to be fully considered at reserved matters stage, an approach that Historic England has confirmed is acceptable to them.

Likewise, consideration of scale and appearance cannot be undertaken at this time given the outline nature of the application. Such issues, and compliance with relevant planning policy and guidance including Neighbourhood Plan Policies 1 (size and type of dwellings), 2 (appearance and materials), 3 (footprint for new dwellings), 4 (parking provision including garage provision and location) 5 (plot coverage and height restrictions) and 10 (impact on AONB) will therefore take place at reserved matters stage.

Similarly, noise impacts to the proposed dwellings and waste collection cannot be fully considered at this time. However, conditions will be appended to any permission granted to ensure that noise mitigation and full details of collection facilities for waste and recycling are supplied with any reserved matters submission.

Landscaping is also a reserved matter so cannot be given any detailed consideration at this time. However, boundary trees that could be affected by the layout have not been assessed to date. Therefore, whilst landscaping is a reserved matter the requirement for a tree survey to accompany any reserved matters application will be appended to any permission granted. As far as can be ascertained at this time it is considered that the development accords with the NPPF in general and specifically to paragraphs 130b) and c) of the NPPF, Development Plan Policies CS01, CS12 and DM15 and Neighbourhood Plan Policies 1, 2 and 10.

Highway Safety

The development would be accessed via a new access from the site onto Town Lane, an unmade, privately owned lane. Town Lane then provides existing access onto the public highway (the A149.)

The applicant has shown that access can be achieved from the site to the adopted highway in planning terms. Rights of access and land ownership are not planning matters and would have to be considered under civil law.

The original application was submitted with the red line including Town Lane and access onto the A149. However, because no operational development or change of use was proposed at the junction of Town Lane with the A149 the red line did not need to extend that far i.e., the red line needs only include land where operation development or change of use is taking place. The red line was therefore subsequently reduced and the Local Highway Authority's amended their comments accordingly.

This reduction in the red line site boundary and change in the Local Highway Authority's stance was on the basis of legal advice sought by the applicant, Local Planning Authority and Local Highway Authority.

The conclusion of the legal advice was that the requirement to rectify an existing issue by the current application, that proposes no operational development or change of use of the access of Town Lane with the A149, would be unreasonable and disproportionate and would not therefore meet the conditions test laid down in Planning Practice Guidance. Likewise, the shortcomings of Town Lane itself do not constitute unacceptable highway safety issues and cannot therefore constitute a reason for refusal on the grounds of highway safety. Furthermore, the development of the site with 6 additional dwellings would not result in *'residual cumulative impacts on the [adopted] road network'* (NPPF Paragraph 111.)

The applicant has shown that access can be secured from the site to the adopted highway in planning terms.

It is therefore considered that the development accords with the NPPF in general and specifically to paragraph 111 of the NPPF and Development Plan Policy CS11.

Parking provision cannot be fully considered at this time and would have to be considered at reserved matters stage.

Notwithstanding this, whether Town Lane is an appropriate access in terms of amenity is an issue that is covered in the section below.

Residential Amenity

Given the outline nature of the application, detailed consideration cannot be given to residential amenity either in relation to neighbouring dwellings or inter-relationship amenity.

Notwithstanding this, there are some concerns with the indicative layout that would have to be resolved by the reserved matters submission. These issues include overbearing, overshadowing and overlooking impacts as well as refuse collection, the latter of which, if a refuse truck could not gain access and turn at the end of the site, could result in disamenity (noise and odour) by virtue all bins associated with the development being immediately adjacent to frontage dwelling(s).

The issue of the impact of additional dwellings on existing occupants of Town Lane by virtue of noise and dust due to its unmade nature, and whether it would provide suitable access for all users of the proposed development (including wheelchair and pushchair users) cannot be resolved by reserved matters or by this outline application due to the fact that the applicants have no ability to improve Town Lane because they don't own it. However, it is not considered that the increase in 6 dwellings (36 vehicular movements per day) would be sufficient to warrant refusal on the grounds of disamenity to existing occupants of Town Lane, and there is an element of 'buyer beware' in terms of access via the unmade lane.

Members will need to consider whether the development accords with the NPPF in general and specifically to paragraphs 110b) and 130f) that respectively require development *[to have] safe and suitable access for all users and [to] create places that are safe, inclusive and accessible...*, and Development Plan Policy CS11 that requires development to *provide for safe and convenient access for all modes*.

Construction traffic, noise and hours could all be suitably conditioned if permission were granted as could lighting and air source heat pumps.

However, with layout unknown, noise attenuation in the form of acoustic fencing or walls cannot be fully considered given that layout is indicative only. Notwithstanding this a noise mitigation condition could be appended to any permission granted that could address noise impacts to occupiers of the proposed development. Although it should be noted that the lane itself is not conducive to travelling at any speed.

In summary it is considered, on balance, that residential amenity could either be suitably designed out at reserved matter stage or would not be sufficient enough to warrant refusal.

The development is therefore considered to accord with the NPPF in general and Development Plan Policies CS08 and DM15 in relation to residential amenity.

Ecology, Protected Species and Sites

Ecology: The applicant has stated that they would provide a Net Gain in Biodiversity, and the Local Planning Authority's Senior Ecologist is happy to secure this by condition. The proposed condition also covers protected species by requiring bat boxes, bird boxes an owl box and hedgehog holes.

Protected Species: The presence of a bat roost within the bungalow means that a licence will be required. This will be conditioned if permission is granted.

Because a license is required, the LPA is obligated to have regard to the requirements of the Habitats Directive. To do this they must consider the three tests of derogation the results of which should indicate the likelihood of Natural England granting the requisite license. The three tests are:

- Overriding Public Interest
- No Satisfactory Alternative

- Maintaining a Favourable Conservation Status
Taking each in turn:

Overriding Public Interest (OPI)

The OPI could be derived from the provision of 6 dwellings within the development boundary of the one of the borough's Joint Key Rural Service Centres, including 1 affordable unit as well as a £12,000 financial contribution to affordable housing provision within the borough that will add to the housing stock and is in accordance with an up-to-date Local Plan.

Although limited, there could also be some local economic benefit associated with the resultant dwellings, building contractors and suppliers during the construction phase.

No Satisfactory Alternative (NSA)

Do nothing – this would offer no economic benefits, and the loss of the building itself to disrepair could result in complete loss of the roost.

Proceed with the development as proposed – this would offer the greatest social benefit via housing supply and economic gain.

Maintaining a Favourable Conservation Status

The proposed development is unlikely to have a significant impact on the conservation status of the bat population as a whole, and therefore maintaining a favourable conservation status is likely to be achievable.

The conclusion of the three tests is that the LPA considers it likely that Natural England would grant the requisite license.

Protected Sites: A Shadow Habitat Regulations Assessment (sHRA) was submitted with the application that considered direct and indirect impacts on protected sites.

The site lies within the Zone of Influence of the following protected sites:

- North Norfolk Coast Special Area of Conservation (SAC)
- The Wash and North Norfolk Coast SAC
- North Norfolk Coast Special Protection Area (SPA)
- North Norfolk Coast Ramsar

An appropriate assessment has been carried out by the Local Planning Authority (LPA), as Competent Authority, that concludes that there would be no direct impacts and that indirect impacts from increased recreational activity could be mitigated by payment of the Green Infrastructure and Recreational Avoidance Mitigation Strategy Fee (GIRAMS) £1,265.04 (£210.84 per additional dwelling.)

Both Natural England and the LPA's Senior Ecologist agree with the finding of the appropriate assessment.

In this instance, because a S106 Agreement is required to secure affordable housing, the GIRAMS payment will be secured within the same agreement.

The development is therefore considered to accord with the NPPF (paragraph 174a) and Development Plan (CS01 and CS12) in relation to protected sites.

Affordable Housing

The site area and number of dwellings, together with its location in a designated rural area, means that an affordable housing contribution is required in line with the NPPF, Development Plan Policy CS09 and Neighbourhood Plan Policy 6.

In this instance the requirement is for 1.2 units. This should be delivered as 1no. built unit for rent and a commuted sum of £12,000 to discharge the remaining 0.2 of a unit.

This will be secured via a S106 Agreement.

On successful completion of the S106 Agreement, the development would accord with the NPPF, Development Plan Policy CS09 and Neighbourhood Plan Policy 6.

Crime and Disorder

There are no specific crime and disorder issues arising from the proposed development.

Other Material Considerations

In relation to comments made by statutory consultees and third-parties not covered in the main body of the report your officers respond as follows:

Parish Council:

- 'Eco-friendly' provision (solar panels, water collect, etc.) – there are no specific policies requiring such provision. However, Certain requirements come under the Building Regulations, which are separate to planning requirements.

CSNN Officer:

- Restrict the total number of dwellings to less than 7; 3-5 dwellings would have less impact – the application has to be determined as submitted
- Resurfacing/upgrading of the lane/track surface to tarmac or similar (to reduce noise and dust impacts) – this is not achievable because the applicant does not own the road. Furthermore, it is not considered reasonable nor proportionate
- Acoustic grade fence or wall, 2m high, for Plot 1 – as layout is not know it is not possible to condition something so prescriptive at this outline stage.

Third-Party Representations:

- Dimensions of the dwellings are not known – scale and appearance are reserved matters
- These will be more holiday homes – there is no policy restricting dwellings to principal residencies
- Applicant's do not have ownership of their frontage onto Town Lane; Cherry Trees only benefits from a 12ft wide right of access along the west side of Town Lane – ownership is not a planning matter, but a civil one. The appropriate notices appear to have been served
- Boundary trees are not shown on the plans – this can be suitably conditioned
- Fire Risk from the density of development – this is a building control issue
- Drainage has not been fully considered – this can be suitably conditioned
- No provision has been made for affordable housing – affordable housing could be secured by S106 Agreement

- There has been ongoing development surrounding us for years – whilst this is acknowledged, this is not a reason to preclude development. Construction, including construction workers parking, will be controlled by a Construction Management Plan.

Issues relating to contamination, drainage, ecology, archaeology, and construction management as requested by statutory consultees, can all be suitably conditioned if permission is granted.

CONCLUSION

The site is located within the development boundary of Brancaster Staithe, a Joint Key Rural Service Centre and area where residential development, of an appropriate scale, is generally supported.

The application is in outline form for up to 7no. dwellings (a net increase of 6 dwellings). All matters are reserved for future consideration except access which is to be provided by a new access on to Town Lane which itself accesses the public highway to the north. The Local Highway Authority has confirmed they have no objection to the proposed development on the grounds of highway safety.

An indicative layout (although not wholly acceptable due to overbearing, overshadowing, and overlooking impacts as well as waste collection issues) together with a density analysis, has satisfied the LPA that the site could accommodate a net increase of 6 dwellings without detriment to the Area of Outstanding Natural Beauty, Scheduled Ancient Monument, highway safety or protected sites and species. It is considered that most of the residential amenity issues relating to the current indicative layout and identified by consultees and third parties could be designed out at reserved matters stage. However, the convenience and suitability of Town Lane cannot be addressed by either this outline application or any future reserved matters applications. Nevertheless, it is considered, on balance, that provision of 6 dwellings including 1no. affordable dwelling and £12,000 financial contribution to affordable housing, on a site within the development boundary outweighs this aspect.

It is therefore considered that the development, in terms of outline considerations, accords with the NPPF in general and specifically to paragraphs 111, 130b) and c) 174, 176 and 177 of the NPPF, Development Plan Policies CS01, CS02, CS09, CS11, CS12 and CS14, and Neighbourhood Plan Policies 1, 2, 5, 6 and 10, and the following is recommended:

A) APPROVE subject to conditions and the satisfactory completion of a S106 Agreement to secure affordable housing and GIRAMS payment within 4 months of the date of this committee resolution.

B) REFUSE in the event that the S106 Agreement is not completed within 4 months of the date of this committee resolution due to the failure to secure affordable housing and GIRAMS payment.

RECOMMENDATION

APPROVE subject to the imposition of the following condition(s):

- 1 Condition: Approval of layout, scale, appearance and landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority before any development is commenced.

- 1 Reason: To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition: Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted to the Local Planning Authority in writing and shall be carried out as approved.
- 2 Reason: To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 3 Condition: Application for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 3 Reason: No development above foundation level shall take place on site until a scheme to protect the dwellings from road traffic noise has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved before any of the dwellings are occupied.
- 4 Condition: The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the latest such matter to be approved.
- 4 Reason: To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 5 Condition: In relation to location and access only the development hereby permitted shall be carried out in accordance with the following approved plan drawing no:

20070 03 Rev.E.
- 5 Reason: For the avoidance of doubt and in the interests of proper planning.
- 6 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 the Environment Agency's Land Contamination Risk Management (LCRM).

- 6 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.
- 7 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.
- 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.
- 8 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.

- 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.
- 9 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 6, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 7, 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 8.

- 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: No development shall commence until full details of the foul and surface water drainage arrangements for the site have been submitted to and approved in writing by the Local Planning Authority. The drainage details shall be constructed as approved before any part of the development hereby permitted is brought into use.
- 10 Reason: To ensure that there is a satisfactory means of drainage in accordance with the NPPF.

This needs to be a pre-commencement condition as drainage is a fundamental issue that needs to be planned for and agreed at the start of the development.

- 11 Condition: No demolition/development shall take place until an archaeological written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions and:
- I. The programme and methodology of site investigation and recording
 - II. The programme for post investigation assessment
 - III. Provision to be made for analysis of the site investigation and recording
 - IV. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 - V. Provision to be made for archive deposition of the analysis and records of the site investigation and
 - VI. Nomination of a competent person or persons/organization to undertake the works set out within the written scheme of investigation.
- 11 Reason: To safeguard archaeological interests in accordance with the principles of the NPPF. This needs to be a pre-commencement condition given the potential impact upon archaeological assets during groundworks/construction.
- 12 Condition: No demolition/development shall take place other than in accordance with the written scheme of investigation approved under condition 11 and any addenda to that WSI covering subsequent phases of mitigation.
- 12 Reason: To safeguard archaeological interests in accordance with the principles of the NPPF.
- 13 Condition: The development shall not be occupied or put into first use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological written scheme of investigation approved under condition 11 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.
- 13 Reason: To safeguard archaeological interests in accordance with the principles of the NPPF.
- 14 Condition: Prior to commencement of development, including demolition and site clearance, a Construction Management Plan (CMP) shall be submitted to and agreed in writing by the Local Planning Authority. The CMP shall include noise, dust,

vibration, waste management and lighting mitigation measures which should include showing where plant, materials, waste etc., are to be stored/located, where workers' vehicles will be parked, and the site hours of 0800-1800 max on weekdays, and 0900-1300 Saturdays only, with no work Sundays/bank/Public Holidays.

14 Reason: In the interests of the amenities of the locality in accordance with the principles of the NPPF.

15 Condition: No development shall take place (including demolition, groundworks, vegetation clearance) until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority.

The LEMP shall detail the management and planting details of created and retained habitats, enhancement of hedgerows and installation of bat boxes, bird boxes, hedgehog holes and owl box. The LEMP shall outline how the habitat will be secured, monitored and the mechanism to achieve it. The LEMP shall accord with details outlined within the Biodiversity Metric 3.0 (20/04/2022) and Ecological Appraisal (Baker Consultants, Sept 2022) to provide a measurable net gain. Development shall be carried out in accordance with the approved plan.

15 Reason: In order to safeguard the ecological interests of the site in accordance with the NPPF and specifically section 15 of the NPPF and Development Plan Policy CS12.

16 Condition: The demolition of the existing bungalow shall not in any circumstances commence unless the local planning authority has been provided with either:

- a) a license issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead, or
- b) a statement in writing from the relevant licensing body or the Local Planning Authority to the effect that it does not consider that the specified activity/development will require a license.

16 Reason: In order to ensure protected species are suitably protected in accordance with the Habitats Directive, Section 15 of the NPPF, Development Plan Policy 12.

17 Condition: Submission of reserved matters shall include:

- * A plan showing site levels (existing and proposed)
- * A layout that includes a 3m wide SAM avoidance strip on the western side of the site
- * An outdoor lighting plan
- * Air source heat pump details if proposed
- * Noise mitigation measures for entrance plots
- * Full details of collection facilities relating to waste and recycling
- * A tree survey showing the following:

- a) a plan indicating the location of and allocating a reference number to each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75mm, showing clearly which trees are to be retained and which trees are to be removed, and the crown spread of each tree
- b) details of the species, diameter, approximate height and condition of each tree in accordance with the latest BS standards, and of each tree which is on land adjacent

to the site where the crown spread of that tree falls over the application site and where any tree is located within 15m in distance from the application site.

- 17 Reason: To ensure that the reserved matters submission contains sufficient information to consider lighting, noise, waste and recycling and tree protection in accordance with the NPPF and Development Plan.