

Parish:	Stoke Ferry	
Proposal:	Outline planning application for the construction of 2 no. retail units (and storage) plus associated parking and access and 2 no. flats to be held in association with the retail units.	
Location:	Land East of Furlong Road Stoke Ferry King's Lynn Norfolk PE33 9SU	
Applicant:	Mr Paul Bishopp	
Case No:	23/00605/O (Outline Application)	
Case Officer:	Mrs C Dorgan	Date for Determination: 6 July 2023 Extension of Time Expiry Date: 12 January 2024

Reason for Referral to Planning Committee – Called in by Cllr Lintern

Neighbourhood Plan: Yes

Members Update

Members deferred this planning application at the 16th November (2023) Planning Committee meeting. This deferral was to allow for a thorough assessment of the impact of the adjacent storage building and its use on the proposed dwellinghouses, and to allow for the submission and review of a noise impact assessment. The application has since fundamentally changed with the four dwellings fronting onto Furlong Road having been entirely removed from the proposal. Therefore, the report has been amended accordingly.

Case Summary

The application site lies to the north of the village of Stoke Ferry, and fronts onto Furlong Road. Stoke Ferry is categorised as a Key Rural Service Centre in the adopted Local Plan. Inset map G88 identifies that the application site lies outside of the development boundary for Stoke Ferry. The application site abuts the Stoke Ferry Conservation Area, which runs along the front of the site. The application site includes two trees protected under a Tree Protection Order, is within Flood Zone 1 (low risk) and within the Zone of Influence for protected sites.

The application seeks outline planning consent with some matters reserved for the construction of 2 no. retail units (and storage) plus associated parking and access and 2 no. flats to be held in association with the retail units. Access is via Indigo Road. The matters included within this application are access, layout and scale.

Key Issues

- Planning History
- Principle of Development
- Access/ Highway Safety
- Form and Character and Impact on Conservation Area
- Protected Trees
- Neighbour Amenity
- Other material considerations

Recommendation

APPROVE.

THE APPLICATION

The application site lies to the north of the village of Stoke Ferry, and fronts onto Furlong Road. Stoke Ferry is categorised as a Key Rural Service Centre in the adopted Local Plan. Inset map G88 identifies that the application site lies outside of the development boundary for Stoke Ferry. The application site abuts the Stoke Ferry Conservation Area, which runs along the front of the site. The application site includes two trees protected under a Tree Protection Order, is within Flood Zone 1 (low risk) and within the Zone of Influence for protected sites.

The application seeks outline planning consent with some matters reserved for the construction of 2 no. retail units (and storage) plus associated parking and access and 2 no. flats to be held in association with the retail units. Access would be via Indigo Road. The matters included within this application are access, layout and scale. A subsequent reserved matters application would need to include appearance and landscape.

The proposed commercial unit would include a retail unit (no.1) of 200 square metres and a second small retail unit (no.2) with a floorspace of 30 square metres. There is also a storage area proposed for unit 1. On the first floor would be two flats. The indicative plans show the building as one and a half storeys in height and could include a hipped roof and catslide dormer windows at first floor. The ridge height proposed is 7.4m, and the eaves height is 2.7m.

The area of land to the west of the proposed retail units is not proposed for development as part of this application but on the plans is notated as an 'area for future residential development subject to removal of adjacent warehousing and future planning application – to be maintained in the interim'. However, the decision made will not bind to any future approval of residential development on this land. The description of development forms the extent of consideration in this matter. An informative note can be added to any planning decision. The boundary treatments would be 1.2m post and rail with wire mesh fencing. The landscaping/ maintenance of this part of the site could be addressed as part of the reserved matters application.

SUPPORTING CASE

Following deferral at November Planning Committee to allow consideration of the impact of the adjacent 2Agriculture storage building and use on the proposed development in the event this building / use remains, the applicant made the decision to revise the proposal and omit the 4 no. residential properties from the scheme. As a result, this outline application now seeks approval for the construction of 2 no. retail units (and storage) with 2 no. flats situated above, which are to be held in association with the retail units. Access, layout and scale are for consideration now, with landscaping and appearance to be dealt with at reserved matters stage.

The western part of the site fronting Furlong Road is to be retained by the applicant as an area for future residential development, that would be subject to a separate planning application once the adjacent storage building is removed.

The application site lies outside of but immediately adjacent to the development boundary of Stoke Ferry, highlighting its sustainability for 2 no. small retail units that would support the rural community with associated residential accommodation above. This is affirmed by the continuing growth of the village to the north, encompassed by the existing development on Indigo Road and the 2Agriculture Grain Store site with outline consent for 30 no. units and reserved matters pending determination, as well as other nearby residential sites on Lynn Road with applications pending consideration.

The site comprises brownfield land that benefits from an extant consent and the development proposed represents natural infill that would bring significant benefits to the village and rural economy. Development of the land would not only provide visual enhancement to the streetscene and adjacent conservation area, but would also provide an additional community facility in the form of the small retail units which is supported by both national and local planning policies.

In particular, Policy SF1 of the recently 'made' Stoke Ferry Neighbourhood Plan (NP) (Aug 2023) gives support for the development of new community facilities and 'Community Action 1 – Sites for Visual Enhancement' within the NP specifically includes part of the application site at item 5 'Land between Indigo Road and the 2Agriculture Grain Store', encouraging measures to improve its visual appearance.

Although new residential development outside the development boundary would normally conflict with Policy DM2 of the SADMP (2016), given the circumstances of the site and the fact that the 2 no. residential flats would be held in association with the retail units which could be secured by condition, it is considered that the proposal complies with the objectives of this policy. The small scale residential element of the scheme would support the provision of the community facility and small scale employment use in a sustainable location that would significantly benefit the village.

Stoke Ferry is designated as a Key Rural Service Centre in the adopted Development Plan. Policies CS01 Spatial Strategy and CS02 Settlement Hierarchy of the Core Strategy (2011) set out the Council's strategy for growth in the Borough and identify that in rural areas development will be focussed in the most sustainable locations, which includes the Key Rural Service Centres that are one of the highest tiers of settlement.

The development of this site would not encroach into open countryside but instead would utilise overgrown brownfield land in order to provide 2 no. small retail units for the community. The layout has been carefully revised in order to address the input of consultees so that it demonstrates an acceptable and high quality scheme that would improve the visual

appearance of the site, be in keeping with the established character of the area, enhance the adjacent Conservation Area and not result in any harm to residential amenity. The scale of the retail unit and flats has been kept to a minimum in order to reduce visual impact and integrate well in the streetscene.

Given the 4 no. residential units on the western part of the site have now been omitted from the scheme, there would be no impact on the RPA of the protected Oak tree on Furlong Road.

NCC Highways are satisfied suitable access can be achieved along with on site parking provision that would meet adopted standards. Indigo Road is proposed to be widened from 4.8m to 5.5m with provision of a 1.8m wide footway from the Furlong Road junction to the retail access, which will be an additional public benefit of the scheme.

For the reasons given, we consider the revised application proposal constitutes sustainable development that accords with the provisions of the NPPF and Development Plan as a whole, including the recently made Stoke Ferry Neighbourhood Plan. We therefore respectfully request that Members grant outline planning permission subject to conditions in accordance with the Officer recommendation.

PLANNING HISTORY

10/01814/FM: Application Permitted: 27/01/11 - Construction of 13 social houses, including new village hall and 30 parking spaces and new access - Land Adjacent To Furlong Road

10/00564/FM: Application Refused: 19/08/10 - Construction of 13 social houses, including new village hall and 25 parking spaces and new access - Land At Furlong Road

10/01814/NMAM_1: Application Permitted: 21/06/11 - NON-MATERIAL AMENDMENT TO PLANNING CONSENT 10/01814/FM: Construction of 13 social houses, including new village hall and 30 parking spaces and new access - Land Adjacent To Furlong Road

RESPONSE TO CONSULTATION

Parish Council: OBJECT

The Parish Council's position has not changed. They do not believe the revisions have made the necessary changes for them to approve this application and we have asked our BC to continue with the call-in for this application.

Comments on previous scheme: The area where the 3 bungalows are proposed to be sited is an open space area which was part of planning application ref: 10/01814/FM (13 Social Houses, New Village Hall & 30 Parking Spaces from 2010. It was agreed by the Parish Council, at the time of consultation, that this open space could be used for the new village hall that had been promised to the village in a S106. This was because the development was on Exception Land and would not have been as welcomed without this offer of village gain.

Outside the development boundary: The only time residential units have been agreed outside of the development boundary is when there has been village gain. This development has actually taken away a historically agreed green open space. Hence a reduction in village assets, not a village gain. The building of the village hall did not take place because the

company went bust, not because of any other reason. This is exception land and only considered desirable due to the promised village gain that never happened. There is no evidence to prove a retail unit would be viable at this time.

Contaminated land - We dispute the comments made. When Indigo Road was being constructed there was a spike in contamination which has never been explained. Our concern that disturbing this land may cause air quality deterioration remains valid.

Social facilities- School places and bus service. Our school, All Saints Academy, was oversubscribed this year, 12 children who actually live in the village now could not have a place there and have to travel outside of the village. Stoke Ferry does not have many buses that service it and none covering working hours. The development of 30 + 62 houses mentioned here has village gain. We will be losing an out of date mill and open green space will be provided. This development does not have any village amenities. These new units will be adding to the already overstretched infrastructure, with no open green space and no added village gain at all.

Highway issues- The visibility on Furlong Road towards the busy A134 from this access is not good, when you add numerous large articulated lorries this is a potential hazard. Also, due to the existing large area of tarmac, which would have been the new village hall car park, there is a lot of car parking spaces for such a small amount of homes. The 2nd oak tree (TPO pending) could obstruct the new allocated parking spaces and have an effect on the Highways required widening of the road and new pathway.

Physical Infrastructure- We would like to see a plan for the monitoring of the tarmac area being left untouched to ensure this happens. By making the surface not permeable there is a risk of flooding. This goes against environmental recommendations for surface runoff water.

Trees- We are amazed the developers own tree report did not pick up on a substantial oak tree on the edge of the site. This suggests there is no regard whatsoever for the environment and throws doubt on the credentials of their tree report. The BC arborist has confirmed the oak tree does merit a TPO.

S106 open space- Please provide evidence of the signed and completed version of the S106. We still believe the requirement for open green space should be fulfilled. There is no comparison between the promised open space, or the village hall that was not built and the now proposed retail space. There is no evidence a retail space is "much needed", or the proposed retail space will enhance the conservation area.

Policy SF1 has been misquoted. In principle support is offered for the development of new community facilities with specific support for proposals that would provide health and medical facilities; school outreach facilities; an outdoor classroom; outdoor recreation facilities; a Post Office; opportunities for shared spaces/multiuse community facilities. The Neighbourhood Plan does not intend to alter the current adopted Development Boundary. The proposal would only be a village gain if it were to include open green space.

Highways Authority: NO OBJECTIONS subject to conditions

With reference to the amendment consultation and associated drawings, no objection to the proposed alterations and continue to recommend the conditions of our previous correspondence.

Internal Drainage Board: NO COMMENTS

Environmental Health & Housing - Environmental Quality: NO OBJECTIONS subject to conditions.

Awaiting comments on current scheme. Consultation period expires 21 December 2023.

Comments on previous scheme: Air Quality - The development is in addition to a number of recent major developments within Stoke Ferry including:

- *23/00177/RMM Reserved Matters Application for 62 dwellings pending decision*
- *23/00178/RMM Reserved Matters Application for 30 dwellings pending decision*
- *22/00871/FM Proposed residential development of 13 dwellings pending decision*

Changes in traffic movements become of significant concern for air quality where they approach Institute of Air Quality Management's (2017) screening criteria, such as 500 vehicles per day. The average trip rate per dwelling in this area can be factors higher than other developments for example with better connectivity and potentially of concern.

These additional emissions have known damage costs and whilst this application individually is unlikely to lead to an exceedance in the air quality objectives, we must recommend effective mitigation of the additional emissions. Mitigation can be achieved in part via policy CS08 that seeks a reduction of 10% in the building emission standards when compared to SAP and therefore recommend this to be secured via condition. This is in addition to the standard mitigation such as electric vehicle charging infrastructure, which also should be secured through conditions.

Contaminated Land- We have reviewed the application in the light of the earlier consent (10/01814/FM) which is referred to in the screening assessment provided by the applicant. The investigation and remediation (by soil stabilisation) was signed off for the main phase of residential development to the south, and for the village hall and car park. However, although the car park was constructed, the village hall development was not completed.

The approved remediation was carried out for the consented use as a village hall and car park. The current proposal is for a new, more sensitive residential use and requires a review of the previous work, and risk assessment by a competent person in line with the requirements of National Planning Policy Framework (para 183) and Land contamination risk management (LCRM) to demonstrate that the site can be made suitable for the proposed use. Recommend conditions are attached to secure this.

Community Safety and Neighbour Nuisance Officer (verbal): NO OBJECTION subject to conditions.

A Noise Impact Assessment is required for the residential flats proposed above the retail units. While these are associated with the retail uses, they are also in close proximity to the neighbouring commercial use. This can be conditioned as noise can be mitigated against by the use of materials, insulation and the placement of windows etc. This assessment can inform the detailed design and materials of the flats at the reserved matters stage.

Support the inclusion of conditions for the submission of a Construction Management Plan, site hours, drainage details and a Noise Management Plan for the operation of the retail units.

Arboricultural Officer: NO OBJECTION subject to conditions

Awaiting comments on current scheme. Consultation period expires 21 December 2023.

Comments on previous scheme: An objection now on Arb grounds would not stand up to serious scrutiny, the applicant has done just enough by moving most of the hardstanding away from the oak tree to make this acceptable subject to a detailed tree friendly spec for the hardstanding (covered by the condition).

The most recent PROPOSED BLOCK PLAN AND LOCATION PLAN, drawing number 230953 /10 /100 revision G significantly reduces the hardstanding for vehicle access and parking at the front of the property within the root protection area of the mature oak tree protected by Tree Preservation Order 2/TPO/00287 (listed as T1 in the TPO).

The British Standard does advise that any incursion with hard surfacing within an RPA if there is justification should provide a technical reason to prevent damage to the tree and not exceed 20% of any unsurfaced ground within the RPA, the applicant advises that this revised layout reduces the hard surfacing to just under 16%, in accordance with current guidance.

Should Committee approve this proposal and grant consent for this scheme in its current form the following is a list of suggested Tree Protection and Landscape planning conditions aimed at protecting the existing trees and softening the impact of hard surfacing and 6 car parking spaces at the Furlong Road front of site.

Historic Environment Service: NO COMMENTS

Conservation Officer: NO OBJECTION

The amended plans omit the residential units which would be directly adjacent to the Conservation Area and continue with applications for the retail unit as previously considered under the previous plans. The retail unit, providing it comes in for reserved matters in the way it is currently designed and landscaped, would be unlikely to impact upon the character of the conservation area. At reserved matters we are likely to want to consider signage and lighting as well as quality of materials and detailed landscape plan which could make the building more impactful or successful but at outline, we do not have any further objections to the scheme or comments to make.

One point of note: Should the reserved matters application contain a requirement for Carstone or flint pre-cast panels, these will not be considered acceptable materials. The agent should therefore bear this in mind when submitting details at reserved matters stage.

Natural England: NO OBJECTION

Awaiting comments on current scheme. Consultation period expires 21 December 2023.

Comments on previous scheme: It has been identified that this development falls within the 'Zone of Influence' (Zoi) for one or more of the European designated sites scoped into the Norfolk Green Infrastructure and Recreational disturbance Avoidance and Mitigation Strategy ('GIRAMS'). It is anticipated that certain types of new development (including new tourist accommodation) in this area is 'likely to have a significant effect' on the sensitive interest features of these European designated sites, through increased recreational pressure when considered either alone or 'in combination' with other plans and projects. The

GIRAMS has been put in place to ensure that this additional recreational pressure does not lead to an adverse effect on European designated sites in Norfolk.

Strategic Housing: NO OBJECTION

The total number of units proposed has reduced to 2. As the site area is under 0.5ha and only 2 units are proposed, no affordable housing contribution will be sought.

REPRESENTATIONS

Awaiting representations on current scheme. Consultation period expires 21 December 2023.

*Comments on previous scheme: **FIVE OBJECTIONS** received and **ONE SUPPORT**, these are summarised below -*

Objections-

- *The entrance/ exit is dangerous.*
- *It is land given to the village and would serve the village better as a green space.*
- *Enough houses have been built/ are underway but not enough amenities e.g. doctors and schools are over run, public transport needs improvement.*
- *Toxic fumes from the waste that was buried and disrupted previously. This could cause some serious damage to people's health*
- *This land was promised to the village hall. Even if it was used for parking when events are on there, it would be better for the village than the current plans.*
- *Increasing amounts of traffic going through our small village we have plenty already with the large lorries from the mill, create noise issues.*
- *The land has not been touched since the owners promised a new Village Hall to be built on that land over ten years ago. The land has been fenced off with harris fencing which was 'Ugly' at the time. The land has become overgrown with greenery plants, trees, blackberry bushes and lots more. There is also a huge oak tree which should be protected. There are animals which use the land including an owl which could live in the Oak tree, as well as deer, woodpeckers.*
- *Biggest concern would be the huge hole they made to bury asbestos on that land distal from the road. Would they be digging this up?*
- *Supports-*
- *The retail unit must be on the main road, based on the first principles of the location of retail properties.*
- *Should not have concern re the dust during the construction stage, when the mill at the centre of the settlement is the major cause of respiratory problems for the local community.*

- *The proposed development will be sympathetic with the other proposed residential development that has been approved on the neighbouring plot where one finds the bulk store for the polluting mill due to cease operations.*

LDF CORE STRATEGY POLICIES

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS09 - Housing Distribution

CS11 – Transport

CS12 - Environmental Assets

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM2 – Development Boundaries

DM9 - Community Facilities

DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

NEIGHBOURHOOD PLAN POLICIES

Stoke Ferry Neighbourhood Plan

Policy - SF1 Community Facilities

Policy - SF3 Housing Mix

Policy - SF4 Design and Character

Policy - SF5 HE and CA

Policy - SF6 Non-designated Heritage Assets (important unlisted buildings)

Policy - SF7 Accessibility

Policy - SF9 Development boundary

Policy - SF12 Drainage and Flood Risk

Policy - SF14 Protection and Enhancement of Natural Features and Species

Policy - SF16 New and existing business

Stoke Ferry Design Codes

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NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)
National Design Guide 2021

PLANNING CONSIDERATIONS

The main considerations are:

- Planning History
- Principle of Development
- Access/ Highway Safety
- Form and Character and Impact on Conservation Area
- Protected Trees
- Neighbour Amenity
- Other material considerations

Planning History:

The Parish Council has raised concerns about the scheme and the planning history on the site.

The application site (as part of a wider area of land) has extant planning consent for the construction of 13 social houses, including the provision of a new village hall and 30 parking spaces and a new access under planning reference 10/01814/FM.

The developer at that time constructed the 13 affordable homes and these were handed over to the social housing provider.

However, the developer did not progress the remaining elements of the scheme, the new village hall and car park. This planning consent was subject to a Section 106 agreement on the land which included within the Third Schedule of the legal agreement that the construction of the hall will commence no later than 3 months from the completion of the affordable housing units. Also, that the owner complete the village hall within eighteen months from the commencement of development.

The Council took the decision back in 2012 to halt enforcement action on the site. The file note reads-

'After months of negotiating, corresponding and meeting parties and successors in title, on financial viability it has not been possible to secure compliance – delivery of a new Village hall on site. With formal legal opinions taken, it was not viewed as a matter of expediency to take injunctive action or direct action. Therefore, no further action can be taken: the affordable housing was delivered, the monitoring charge paid, but no new village hall constructed. Therefore, the third schedule and the clause in the Deed of Variation concerning the land sale of the old village hall parcel of land are non-compliant. Given this position, with no enforcement action authorised, no further monitoring is required.'

The decision was taken at this time with considered legal opinion, and in accordance with the Council's scheme of delegation. Therefore, officer's report that this decision estops, (prevents contrary action following a formal decision), the Council from taking any further

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action in pursuit of delivering the new Village Hall under the historic planning permission or S106 agreement.

The previous planning consent also included the provision of an area of open space (sited on the current application site) as part of that scheme however this was not as a result of a policy requirement or an allocation. Current local plan policy only requires open space on developments for more than 20 homes (Policy DM16). Therefore, while the approved scheme included the area of open space, this was not a policy requirement. Going forward a new application would not require the provision of open space. Therefore, open space is not a policy requirement for the site and the current scheme should be considered on its own merits, as otherwise being policy compliant.

Principle of Development:

The application site lies outside of the development boundary for Stoke Ferry, but directly abuts this development boundary.

Policy CS06 of the Core Strategy outlines the strategy for rural areas is to:

- promote sustainable communities and sustainable patterns of development to ensure strong, diverse, economic activity;-
- maintain local character and a high quality environment;
- focus most new development in key rural service centres selected from the Settlement Hierarchy Policy CS02;
- ensure employment, housing (including affordable housing), services and other facilities are provided in close proximity.

Policy CS10 of the Core Strategy supports the rural economy and states that permission may be granted on land which would not otherwise be appropriate for development for an employment generating use which meets a local business need. Any development must satisfy the following criteria:

- It should be appropriate in size and scale to the local area;
- It should be adjacent to the settlement;
- The proposed development and use will not be detrimental to the local environment or local residents

Policy DM2 of the Site Allocations and Development Management Policies Plan states that 'Development will be permitted within the development boundaries of settlements shown on the Policies Map provided it is in accordance with the other policies in the Local Plan. The areas outside development boundaries (excepting specific allocations for development) will be treated as countryside where new development will be more restricted and will be limited to that identified as suitable in rural areas by other policies of the local plan.'

Policy DM 9 'Community Facilities' states that the Council will encourage the retention of existing community facilities and the provision of new facilities, particularly in areas with poor levels of provision and in areas of major growth.

The Stoke Ferry Neighbourhood Plan also includes a number of relevant policies including SF1 Community facilities, SF9 Development Boundary and SF16 New and existing businesses. These echo the Local Plan policies regarding the principle of development.

While the site lies outside of the development boundary it is located between existing residential development to the south (Indigo Road) and to the north by the existing

commercial site which is still in use. This commercial site has an extant outline planning consent for residential development, and there is currently a reserved matters application under consideration (23/00178/RMM). As such while the site is outside of the development boundary it is viewed locally as derelict land in appearance and is otherwise locationally within the established built form of the village.

Stoke Ferry is a Key Rural Service Centre and as such the development of the site for mixed uses including two retail units brings additional services to the village. While the site is located outside of the development boundary, this is a sustainable location for this type of development and the proposal meets the policy criteria of CS10 and is fully in accordance with the development plan. Whilst there is an element of residential development proposed this is ancillary to the primary use and would be conditioned as such. Furthermore, the nature of the locality and the proposed uses of the site outweigh the loss of land designated as countryside in this case. The principle of development is therefore in accordance with the NPPF, and policies CS02, CS06 CS10 and DM9 of the adopted Local Plan and as well as Neighbourhood Plan policies SF1, SF9 and SF16.

Access/ Highway Safety:

The application seeks to provide a customer parking area of 14 spaces to the south east of the site to serve the two retail units and the two flats above, as well as a secure cycle parking area, from a single point of access off Indigo Road. Indigo Road is to be widened and a 1.8m width footpath is to be provided.

The Parish Council has raised concerns that visibility on Furlong Road towards the busy A134 from this access is not good, which may result in a hazard with increased traffic.

However, the Local Highway Authority has no objections to the scheme subject to conditions being attached. The road mitigation proposed is in accordance with the required guidance and ownership details have been submitted which show the developer has the ability to implement the scheme. There are no objections to the parking and turning arrangements proposed for the retail units.

The proposed development is in accordance with the NPPF, policies CS11 and DM17 of the adopted Local Plan and Neighbourhood Plan policy SF7 (Accessibility).

Form and Character and Impact on the Conservation Area:

The application site is directly adjacent to the Stoke Ferry Conservation Area and as such careful consideration has been given to the access, scale and layout proposed. The applicant has worked with and responded to comments from officers to secure a layout which works in this locality, and amendments have been made through the planning process. The siting of the retail units and parking set back from Furlong Road, enables the protection of the retained (and Tree Preservation Order) trees and provides an opportunity for the development of the frontage of Furlong Road to come forward at a later time. The area of land to the west of the proposed retail units is not proposed for development as part of this application but this application does include boundary treatments of 1.2m post and rail with wire mesh fencing around this part of the site. The landscaping of this part of the site can be addressed as part of the reserved matters application. The positioning of the retail units and car park to the rear of this area of land, alongside the height of the buildings proposed (which is approximately 1m lower at ridge height than the dwellings adjacent) will limit the impact of this on the street scene particularly if and when the western part of the site comes forward for development at a later date. Given the proposed scale it is considered

that an appropriate scheme could come forward at reserved matters which would be acceptable in this locality.

The Stoke Ferry Design Codes document which sits alongside the Neighbourhood Plan identifies the application site as 'a patch of derelict land with extensive metal security fencing; an eye-sore that detracts from the charm of Stoke Ferry and provides an opportunity for a managed site or future development. The 250-year-old oak at this location is worthy of recording.' Policy SF4 of the Neighbourhood Plan specifically refers to the site as an 'opportunity for visual enhancement and renewal'.

Policy SF 5 (Historic Environment and Conservation Area) supports national policy guidance regarding Conservation Areas and Local Plan policy CS12. Policy SF5 states-

'The special character of Stoke Ferry Conservation Area and its setting will be preserved and enhanced with specific regard to the Stoke Ferry Conservation Area Character Statement 1992.

This will be achieved by:

- a. Encouraging the retention and maintenance of buildings which contribute to the overall character of the Conservation Area, whether listed or not.*
- b. Ensuring that new development is in keeping with the special qualities, character and appearance of the Conservation Area*
- c. Protecting the setting of the Conservation Area from development which adversely affects views into or out of the Conservation Area.*
- d. Encouraging the maintenance and enhancement of features and details which contribute to the area's local distinctiveness.'*

The conservation officer has no objections to the proposed scheme, finding that 'the retail unit, providing it comes in for reserved matters in the way it is currently designed and landscaped, would be unlikely to impact upon the character of the conservation area.' While the plans have shown the proposed design, this is indicative only as the appearance (including materials) and landscaping are yet to be determined at reserved matters.

The proposed access, layout and scale of the development proposed is in line with the NPPF, policies CS12 and DM15 of the Local Plan and policies SF4 and SF5 of the Stoke Ferry Neighbourhood Plan.

Protected Trees:

The application site includes two Oak trees. The older Oak tree which is on Furlong Road has been protected by a Tree Preservation Order (TPO) for some time. A recently served TPO extends protection to include the smaller Oak which is at the entrance to Indigo Road. As such the proposed development must seek to protect these valuable trees, although the current scheme does not propose to develop the area of land directly around the protected trees. That said a condition should be attached to ensure that during the construction period the trees would remain protected from any damage from the storage of materials, vehicles etc. The trees will again be considered as part of the landscaping scheme submitted at the reserved matters stage. Given the western part of the application site is in a prominent location in the conservation area it is appropriate that a landscape management/maintenance plan should also be submitted alongside the landscaping scheme. This will ensure this area of land is suitably maintained.

The proposed development is in accordance with the NPPF, policies CS08 and CS12, and DM15 of the development plan. Also, policy SF14 Protection and enhancement of natural features and species of the Neighbourhood Plan.

Neighbour Amenity:

The application site is surrounded by a commercial development to the north of the site, residential development on Indigo Road to the south and east and Furlong Road to the west.

Paragraph 187 of the NPPF states that decisions should ensure that new development can be integrated effectively with existing businesses and community facilities and that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.

Given the adjacent commercial use to the east of the application site, it is necessary for the applicant to submit a Noise Impact Assessment to consider potential noise from the commercial use on the residents of the proposed flats. The noise could be mitigated against, but the Assessment would need to inform the design of the flats and ensure any mitigation is incorporated at the design stage. This would also be secured via condition.

The planning application secures the layout of the site and the scale of development. With regard to the proposed retail units, consideration should be given to both delivery and operating hours to manage the potential traffic, noise and disturbance generated on both the residential neighbours and occupants of the flats proposed. It is appropriate that the applicant submits a Noise Management Plan for the proposed development within which the hours of operation and delivery will be agreed. It should also include any proposed noise mitigation measures deemed necessary and this is attached as a proposed condition. A condition is also attached to tie the occupants of the two residential flats to the retail uses below for the same amenity reasons.

It is necessary to receive information regarding the storage and disposal of commercial waste on site.

Finally, the existing residential development is within close proximity of the site, and the applicant will need to submit and have agreed a Construction Management Plan for the site which should include, for example, hours of work and off-site parking provision. Given the speculative nature of the development in terms of the end users for the retail units, it is appropriate that these conditions allow a degree of flexibility and enable further discussion to respond to the end users, and so the use of conditions will facilitate this.

In terms of neighbour amenity subject to the conditions detailed above, the development proposed is in line with the NPPF and policies CS08 and DM15 of the adopted Local Plan.

Other material considerations:

Flood Risk and Drainage – The application site lies within Flood Zone 1, an area of low risk. The application form states that foul sewage will be disposed of via the main sewer, although detailed drainage details have not yet been submitted and so it is necessary to attach a condition requiring full details of foul and surface water drainage arrangements to be submitted and agreed in writing. In accordance with policies CS08 and DM15 of the Local Plan and policy SF12 'Drainage and flood risk'.

Ecology – The application site is derelict and partially covered in tarmac. There is limited ecological value in its current form. The site does lie within the 'Zone of Influence' (Zol) for one or more of the European designated sites scoped into the Norfolk Green Infrastructure and Recreational disturbance Avoidance and Mitigation Strategy ('GIRAMS'). The GIRAMS has been put in place to ensure that the additional recreational pressure created, as a result of new residential development, does not lead to an adverse effect on European designated sites in Norfolk. Natural England advise that a contribution to the Norfolk GIRAMS should be sought from this development to ensure that the delivery of the GIRAMS remains viable. The applicant has already paid this sum in full. A Shadow Habitats Regulations Assessment has been completed which identifies that subject to these mitigation measures being secured via the GIRAMS payment, this assessment is able to conclude no adverse effects of the development proposal on the integrity of internationally designated wildlife sites in relation to recreation.

Contamination – The Parish Council advises that when Indigo Road was being constructed there was a spike in contamination which has never been explained. Disturbing this land may cause air quality deterioration. The Environmental Quality team has considered the application alongside a screening assessment submitted by the applicant, and in the light of the earlier consent (10/01814/FM). The investigation and remediation (by soil stabilisation) was signed off for the main phase of residential development to the south, and for the village hall and car park. However, although the car park was constructed to some extent, the village hall development was not completed.

The current proposal requires a review of the previous work, and risk assessment by a competent person in line with the requirements of National Planning Policy Framework (para 183) and Land contamination risk management (LCRM) to demonstrate that the site can be made suitable for the proposed use and conditions are proposed to secure this.

Air Quality – The Environmental Quality Officer states that in terms of this application, it is unlikely to lead to an exceedance in the air quality objectives, however it is suggested we seek a reduction of 10% in the building emission standards as well as electric vehicle charging infrastructure. The 10% target is not a measure the Council are actively seeking to secure at this time because through the required Building Control standards the development will be required to deliver a sustainable scheme. A condition is attached to request a scheme for the provision of electric charging within the development to be submitted, as requested.

Affordable Housing - The total number of units proposed has reduced to 2 and as the site area is under 0.5ha, therefore no affordable housing contribution is required.

Local concerns - The Parish Council has requested information regarding the maintenance of the parking area for the retail units, however this is a private development and as such the landowner would be responsible for the development of the scheme in accordance with the approved plans and the management/ maintenance of the site going forward.

The Parish Council stated that they wish part of the application site to come forward for community open space. As stated above there is not a policy requirement for this nor is there an allocation in the Local Plan or Neighbourhood Plan for this use. As such this is not an essential policy requirement that can be insisted upon. The site immediately adjacent to the application site is currently under consideration for residential development and contains a small area of community open space within the proposals.

CONCLUSION:

The application seeks outline planning consent (including access, scale and layout) for the development of a derelict site on the edge of Stoke Ferry. The application site lies outside of the development boundary but given the nature of the site, the existing development surrounding it and the proposed use of the site in a sustainable location (in a Key Rural Service Centre), on balance the principle of development is considered acceptable in this particular set of circumstances.

The application site has an extant consent, as part of a larger site, for a scheme including affordable housing and a village hall and car park. The affordable housing has been delivered but it is not the intention of the developer to construct the village hall and car park. The Council has taken the view (in 2012) that enforcement action would not be taken against the developer. Therefore, this application should be considered on its own merits.

The site lies adjacent to the Conservation Area and includes two protected trees, the scale and layout proposed would not result in harm but rather makes a visual improvement to the locality. The site is recognised in the adopted Neighbourhood Plan as an opportunity for visual enhancement and renewal with a proposed design which is considered sympathetic to characteristics of the site and its context. The development will require the widening of Indigo Road and the provision of a footpath alongside the site. There are no objections to proposal from the Local Highway Authority.

In terms of the impact on neighbour amenity, conditions are proposed to secure adequate management and mitigation measures for the site, in relation to the neighbouring commercial use, and both the long-term retail use and the construction period, which will ensure the development would not be detrimental to surrounding residents (both proposed and existing).

In conclusion of the detailed discussions above, the proposed application is broadly in accordance with the NPPF, policies CS02, CS06, CS08, CS09, CS11, CS12 of the Core Strategy and policies DM9, DM15 and DM17 of the Site Allocations and Development Management Policies Plan. Where there is conflict with Policy DM2 because the development lies outside of the development boundary, the planning balance has been considered and the development would not result in harm. The proposed development is also in accordance with the following policies within the Stoke Ferry Neighbourhood Plan; SF1, SF3, SF4, SF5, SF7, SF9, SF12, SF14 and SF16, and is thereby recommended for approval.

RECOMMENDATION:

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

- 1 Condition: Approval of the details of the means of 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 Reasons: 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 Reasons: 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 Reasons: 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.
- 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 Reasons: 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: Notwithstanding the approved details the development hereby permitted shall be carried out in accordance with the following approved plans in so far as access, layout and scale only. Drawing Nos -
- 230953/10/100I PROPOSED BLOCK PLAN AND LOCATION PLAN 29 NOV 2023
- 230953/10/103C PROPOSED SITE PLAN SHOWING VEHICLE TRACKING 5 OCT 2023 in so far as vehicle tracking only.
- 230953/10/102A PROPOSED FLOOR PLANS AND ELEVATIONS OF FLATS AND RETAIL UNITS 25 JUL 2023 in so far as scale only.
- 5 Reasons: For the avoidance of doubt and in the interests of proper planning.
- 6 Condition: No works shall commence on the site until such time as detailed plans of the roads, footways, foul and surface water drainage, private accesses have been submitted to and approved in writing by the Local Planning Authority. All construction works shall be carried out in accordance with the approved plans.
- 6 Reasons: This needs to be a pre-commencement condition to ensure fundamental elements of the development that cannot be retrospectively designed and built are planned for at the earliest possible stage in the development and therefore will not lead to expensive remedial action and adversely impact on the viability of the development.
- 7 Condition: Prior to the occupation / use of the first retail unit all works shall be carried out on roads/footways and surface water sewers in accordance with the approved specification to the satisfaction of the Local Planning Authority.
- 7 Reasons: To ensure satisfactory development of the site and to ensure estate roads are constructed to a standard suitable for adoption as public highway.
- 8 Condition: Prior to the first occupation of the development hereby permitted 2.4 metre wide parallel visibility splay (as measured back from the near edge of the adjacent highway carriageway) shall be provided across the whole of the site's roadside frontage of Indigo Road .The splay(s) shall thereafter be maintained at all times free from any obstruction exceeding 1.05 metres above the level of the adjacent highway carriageway.

- 8 Reasons: In the interests of highway safety in accordance with the principles of the NPPF.
- 9 Condition: Prior to the first occupation of the development hereby permitted the proposed access / on-site car parking / servicing / loading / unloading / turning area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.
- 9 Reasons: To ensure the permanent availability of the parking/manoeuvring areas, in the interests of satisfactory development and highway safety.
- 10 Condition: Prior to first use, details of a suitable electric vehicle charging scheme shall be submitted to and approved in writing by the Local Planning Authority
- 10 Reasons: To ensure the charging is safe, accessible and convenient for all users including visitors to dwellings and retail unit in accordance with section 112(a) of the NPPF, AQAP and the NCC's parking standards (July 2022).
- 11 Condition: Prior to the commencement of development a Noise Impact Assessment must be submitted to and approved in writing by the Local Planning Authority. The Assessment should consider all noise impacts of the existing commercial use to the east of the site, and include a scheme identifying the mitigation methods to address these impacts on the residents of the flats. The scheme shall be implemented as approved and retained in perpetuity.
- 11 Reasons: To ensure that the amenities of future occupants are safeguarded in accordance with the NPPF.
- 12 Condition: No development above foundation level shall take place on site until a scheme to protect the neighbouring residential dwellings and the flats from noise has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved before the development is brought into use. The Noise Protection Scheme should include the hours of opening, hours of delivery, door openings, and any ventilation, cooling or extraction equipment required.
- 12 Reasons: To ensure that the amenities of neighbouring residents are safeguarded in accordance with the NPPF.
- 13 Condition: Prior to commencement of development a detailed construction management scheme must be submitted to and approved by the Local Planning Authority; this must include proposed timescales and hours of the construction phase, deliveries/collections and any piling. The scheme shall also provide the location of any fixed machinery, their sound power levels, the location and layout of the contractor compound, the location of contractor parking, the location and layout of the materials storage area, machinery storage area and waste & recycling storage area, proposed attenuation and mitigation methods to protect residents from noise, dust and litter and communication methods to the wider community regarding the construction phases and likely disruptions. Details of the storage of fuels, liquids and lubricants The scheme shall be implemented as approved.
- 13 Reasons: To ensure that the amenities of future occupants are safeguarded in accordance with the NPPF.

- 14 Condition: No development shall commence until full details of the foul and surface water drainage arrangements for the site, including percolation test results, 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.
- 14 Reasons: To ensure that there is a satisfactory means of drainage in accordance with the NPPF.
- 15 Condition: Prior to the commencement of use of the retail units a waste management plan shall be submitted in writing to the Local Planning Authority. This will include the storage and removal of all types of commercial waste. The development shall be implemented in accordance with the approved plan.
- 15 Reasons: To ensure that the amenities of future occupants are safeguarded in accordance with the NPPF.
- 16 Condition: Prior to the commencement of use of the retail units hereby approved a lighting scheme for the site shall be submitted and approved in writing to the Local Planning Authority. This shall include all forms of external lighting proposed and also detail any light spill from the retail units. The development shall be implemented in accordance with the approved scheme.
- 16 Reasons: To ensure that the amenities of future occupants are safeguarded in accordance with the NPPF.
- 17 Condition: The buildings hereby approved shall be used for the purposes of Class E(a) only (i.e. excluding Class E(b)-(g) inclusive), (as defined within the Town and Country Planning (Use Classes)(Amendment)Order 2020, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) and shall not be used for any other purpose, including any use permitted under Schedule 2, Part 3 'Changes of Use' of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification.
- 17 Reasons: In order that the Local Planning Authority may retain control over the use of the premises where an alternative use otherwise permitted by the above mentioned Order would be detrimental to the parking requirements and amenities of the locality.
- 18 Condition: No development or other operations on site shall commence on site until the existing Oak trees to be retained have been protected in accordance with a scheme (section 5.5, BS 5837:2012, the Tree Protection Plan) to be submitted to, and approved in writing by the Local Planning Authority.

This scheme shall include:

- a. A site layout plan to a scale and level of accuracy appropriate to the proposal that shows the position, crown spread and Root Protection Area (section 4.6 of BS5837:2012) of every retained tree on site superimposed on the layout plan. The positions of all trees to be removed shall be indicated on this plan.
- b. A schedule of tree works for all the retained trees in paragraphs (a) above, specifying pruning and other remedial or preventative work, whether for physiological, hazard

abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS3998, 2010, Recommendations for tree work.

- c. The details and positions (shown on the plan at paragraph (a) above) of the Tree Protection Barriers, (section 6.2 of BS5837:2012), to form a construction exclusion zone, and the type and extent of ground protection (section 6.2.3 of BS5837:2012) or any other physical tree protection measures, such as tree boxes. These details are to be identified separately where required for different phases of construction work (e.g. construction, hard landscaping). Barrier and ground protection offsets must be dimensioned from existing fixed points on the site to enable accurate setting out. The position of barriers and any ground protection should be shown as a polygon representing the actual alignment of the protection.

The Tree Protection Barriers must be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase.

- d. a detailed Construction Specification/Method Statement for the design and installation of a no-dig access driveway and hard surfacing within the Root protection area of the Oak tree T1, the ground shall not be lowered within the root protection areas of any protected trees.
- e. the details and positions (shown on the plan at paragraph (a) above) of the underground service runs (section 7.7 of BS5837:2012). the details of the working methods to be employed with regard to site logistics including, the proposed access and delivery of materials to the site; space for storing materials spoil and fuel, and the mixing of cement; contractor car parking; site huts, temporary latrines (including their drainage), and any other temporary structures.

18 Reasons: To ensure the existing trees on site protected by Tree Preservation Order 2/TPO/00287 are suitably protected throughout the construction of this development.

19 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).

- 19 Reasons: 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.

- 20 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.

- 20 Reasons: 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.

- 21 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.

- 21 Reasons: 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.

- 22 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 19, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 20, 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 21.

- 22 Reasons: 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.
- 23 Condition: The two residential flats hereby approved shall be held and occupied in connection with the retail units as shown on Drawing No 230953/10/1001 (also hereby approved) at all times and shall at no time be used as an independent unit of residential accommodation. Furthermore, the residential flats hereby approved shall at no time be used as business or commercial premises.
- 23 Reasons: In order that the Local Planning Authority may retain control over the development in the interests of the amenities of the neighbouring residents and the future occupants in accordance with the NPPF.
- 24 Condition: Prior to the first use of the retail units hereby approved full details of the storage and disposal of commercial waste on site shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and thereafter maintained as agreed.
- 24 Reasons: In the interests of the amenities of the locality in accordance with the NPPF.