

Parish:	West Winch	
Proposal:	Replacement of Carrstone Wall in connection with planning application 20/00303/FM	
Location:	Deerfields Lynn Road Setchey KINGS LYNN PE33 OBD	
Applicant:	SHS Holdings	
Case No:	23/02031/F (Full Application)	
Case Officer:	Mrs C Dorgan	Date for Determination: 9 January 2024 Extension of Time Expiry Date: 12 April 2024

Reason for Referral to Planning Committee – Officer recommendation is contrary to Parish Council comments.

Neighbourhood Plan: Yes

Case Summary

Planning permission is sought for the construction of a new carrstone boundary wall (88m in length) along the western boundary of the site known as Deerfields, Lynn Road, Setchey, directly adjacent to the A10.

The application seeks to regularise works which took place contrary to planning consent reference 20/00303/FM. The application also follows, and is identical to, a previous application 21/02363/F which was approved at Planning Committee. The applicant has offered to provide a signed Unilateral Undertaking to secure the construction of the wall within a fixed and agreed period of time.

Key Issues

- Principle of Development and Planning History
- Impact on Form and Character
- Impact on Highway Safety
- Other Material Considerations

Recommendation

(A) APPROVE subject to conditions and the completion of a Unilateral Undertaking (to secure the construction of the wall) within four months of the date of this resolution to approve.

(B) REFUSE In the event that the Unilateral Undertaking (to secure the construction of the wall) is not agreed within four months of the date of this resolution to approve.

THE APPLICATION

Planning permission is sought for the construction of a new carrstone boundary wall (88m in length) along the western boundary of the site known as Deerfields, Lynn Road, Setchey, directly adjacent to the A10.

The application seeks to regularise works which took place contrary to planning consent reference 20/00303/FM. The application also follows, and is identical to, a previous application 21/02363/F which was approved at Planning Committee.

SUPPORTING CASE

1. These submissions follows a review of the application and associated documents. This application should not be controversial, which seeks to resolve the matter concerning the Carrstone Wall as agreed with the Council's Enforcement Officer.

2. The application seeks approval for precisely the same development as approved in 2022 (21/02363/F), to replace the wall that was removed following wind damage and on health and safety grounds following professional advice.

3. The application should be clearly approved because, by particular reference to the consultation representations from the Parish Council and also the Council's Conservation Officer:

3.1 It has been agreed with the Council's Enforcement Officer that the wall should be rebuilt to the same level and standard as per the 2022 Permission.

3.2 The application is for the precisely same development as granted in 2022, supported by the Council and Conservation Officer at the time.

3.3 In any event, the application must be determined on its own merits. The application is acceptable in its own right. There is no need to consider alternatives here.

3.4 Further, there must also be consistency in decision-making. There is no reason to depart from the previous decision to grant the 2022 Permission in respect of the same site and precisely the same development. This is significant material consideration that weighs in favour of granting permission.

3.5 The Conservation officer has raised no in principle concerns. It is however appropriate to impose the same condition requiring agreement of materials as imposed on the 2022 permission, which the applicant agrees.

4. The applicant is also proposing to enter into a Unilateral Undertaking to commit to the rebuilding of the wall in accordance with the permission within 4 months of approval of the materials to be used. This offers the Council complete comfort in this regard.

5. For all the above reasons, we see no legal or policy justification to refuse the application in the circumstances. Approval of the application will finally enable resolution of this matter.

PLANNING HISTORY

21/02363/F: Application Permitted (Committee decision): 07/03/22 - Rebuilding of original Carrstone wall in connection with planning application 20/00303/FM. - Deerfields

20/00303/FM: Application Permitted (Committee decision): 03/06/20 - Change of use of existing grain store barn and site to warehouse and external storage of products for sale and

dispatch. New entrance to highway created. Over-cladding of existing fibre cement panels, new mezzanine floor, internal offices and warehouse storage - Building W of Spinney House

19/01838/FM: Application Withdrawn: 03/02/20 - Change of use of existing grain store barn and site to warehouse and external storage of products for sale and dispatch. Over-cladding of existing fibre cement panels, new mezzanine floor, internal offices and warehouse storage and perimeter fencing. - Building W of Spinney House

12/01549/F: Application Permitted (Delegated decision): 18/12/12 - Change of use of agriculture building to architectural, food industry and motorcycle and bespoke parts fabrication with associated display and sales - Land North of Brooklyn Lynn Road

10/01519/F: Application Permitted (Committee decision): 06/12/10 - Change of use of existing agricultural building for manufacture and distribution of themed play equipment - Land North of Brooklyn Lynn Road

RESPONSE TO CONSULTATION

Parish Council: OBJECTION

The West Winch Parish Council would like to make the following comments;

In the plan accompanying the application it states the wall is to be 'reinstated' and also shows a photo of the original wall. As that wall was over 1.5 m tall and the so-called reinstated wall is only 0.9m high, it therefore not to be truly reinstated. They need to change their drawing terms to reflect what they are actually doing or properly rebuild the wall to its original height which was we understand agreed by Deerfield before they destroyed the existing one.

Further if they build this wall it needs to be properly inspected to see if, as stated on their plan, it matches the photo on the plan. A 0.9m wall cannot match the original wall as shown in the photo. Also attached is some correspondence from a Parish Councillor when the wall was destroyed.

'Within the last two/ three years the wall was rebuilt and re-pointed by a professional builder for the previous owners and in their satisfaction the builder was paid. This wall has formed part of our heritage as it fronted an old Manor House for possibly the last two centuries, and has now been destroyed by the new coming owner. These types of walls are fast disappearing in our Parishes and therefore needs reinstating and protecting.

It is worth noting here that our Borough Councillors, Cllr Gidney, when contacted after the first part of the wall was knocked down (apparently an accident) stated and confirmed the said owners would replace it. The possibility of the wall not being reinstated has caused much upset within our Villages. Please can you confirm that the Owners will carry out the work as agreed to in the rules & regulations & conditions (20/00303 FM) of the Planning department of the Borough Council of Kings Lynn & West Norfolk. May I humbly remind you that the wall is part of OUR heritage, a newly planted hedge or metal fence is not: from a lovely old wall in keeping with our village it now looks an industrial unit with the now erected fencing it resembles a prison, with pallets etc looking so untidy, at least the original wall would have hidden this mess.

In my opinion the said Owners are certainly not providing an asset to our village as it stands and have gone back on their word & agreement. Also, before demolishing the wall should they not have contacted the relevant authorities for consent and were they not insured as

such to replace after it "accidentally" got knocked down. I look forward to your early response before we share this with our Parishioners via the internet and our notice boards etc, as to where we stand.'

Highways Authority: NO OBJECTION

The proposed wall is to be positioned between approximately 4m - 5m back from the carriageway edge and as this would not impact on visibility splays for the point of vehicle access we do not have an objection to the proposal.

Conservation Officer: NO OBJECTION

It was disappointing that this historic wall was demolished. It would therefore be acceptable to rebuild it. However, the existing historic materials have been left in a pile on site which is now overgrown with weeds and other plants. It would therefore be unlikely that much of this material will be able to be reused and matching any new Carstone will not be easy. Therefore, what was a significant historic wall with age and character, will become a new Carstone wall of an inappropriate colour.

It would therefore be useful to know how much of the original materials can be reused to see if this proposal is still viable, and if new Carstone is needed, this should be sourced prior to any decision, to ensure an appropriate wall can be built.

REPRESENTATIONS

None received.

LDF CORE STRATEGY POLICIES

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS10 - The Economy

CS12 - Environmental Assets

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM15 – Environment, Design and Amenity

NEIGHBOURHOOD PLAN POLICIES

Policy WA04 - Providing Sustainable Drainage

Policy WA07 - Design to Protect and Enhance Local Character

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

National Design Guide 2021

PLANNING CONSIDERATIONS

The key issues are:

- Principle of Development and Planning History
- Impact on Form and Character
- Impact on Highway Safety
- Other Material Considerations

Principle of Development and Planning History

Planning permission was granted at Planning Committee in 2020 (ref 20/00303/FM) for the change of use of an existing grain store to use as a warehouse including external storage in connection with a commercial use. The change of use was implemented following the granting of consent, however a carrstone boundary wall, which spanned across the western boundary of the site fronting the A10/Lynn Road, was demolished during construction. The wall is said to have been approximately 1.5m in height and was approximately 81m in length. The development was therefore not completed in accordance with the agreed details and is contrary to conditions attached to the consent. Specifically, conditions –

1. The development hereby permitted shall be carried out in accordance with the following approved plans (Drawing Nos 25124/022B received on 19 May 2020, and 25124/020A, 25124/021A, 25124/023A, 25124/024A, 25124/025A and 25124/901A received on 27 Feb 2020).

7. The existing boundary wall to the west of the development hereby approved shall be taken down to provide a new entrance, and the existing stone and masonry set aside for re-use. The wall to be built in the new location as shown on drawing 25124-022A is to be constructed with the reused or similar materials, mortar, bond and pointing to match the existing.

Drawing number 25124/022B of the previous consent is entitled “Proposed Site Plan and Site Entrance Plan”. It identifies the location of the original carrstone wall on either side of the proposed new access. Two sections of the wall were indicated “to remain” and a third section was annotated “Rebuilt Carrstone Wall”. Condition 7 of 20/00303/FM further provides for the reuse of materials when infilling the section of wall to close up the previous access point. Neither of these conditions have been complied with.

An enforcement case was opened on the site following the demolition of the wall and a Breach of Condition Notice served on the owner/ applicant (ref: 21/00059/BOC). The Breach of Condition Notice stated that the owner was in breach of conditions 1 and 7 of the approved consent 20/00303/FM. S.73A of the Town and Country Planning Act allows the submission of planning applications to regularise developments without enforcement action being taken. Although a local planning authority may invite an application, it cannot be assumed that permission will be granted, and the local planning authority should take care not to fetter its discretion prior to the determination of any application for planning permission – such an application must be considered in the normal way.

An application (identical to this one) was submitted in 2021, with a reference of 21/02363/F. The application was approved by Planning Committee and issued on 07/03/22. Development was not commenced.

Enforcement action, following the Breach of Condition Notice detailed above, resulted in a Hearing held on 19 July 2023 at Kings Lynn Magistrates Court. The Company pleaded guilty to the allegation of Breach of Condition Notice.

After considering the facts of the prosecution case, and mitigation presented, the magistrates sentenced the Company to a fine in the sum of £1,200, a contribution to the prosecution costs in the sum of £1,200 and a £120 victim's surcharge. The total amount owed, £2,520, was ordered to be paid within 28 days of the hearing. This sum was settled.

The applicant has still not commenced development on the wall to date. This application, again, seeks consent to regularise the unauthorised demolition and proposes the rebuilding of the carrstone wall to 0.9m in height and in total 88m long (with 82m adjacent to the road). The wall proposed stretches from the northern boundary south and includes a gateway feature either side of the new access. There would be approximately 50m of this boundary to the far south of the site which would consist of the security fencing and hedgerow planting only. It is important to note that historically the carrstone wall did not stretch along the entire frontage of the site. The positioning of the proposed wall does differ from the previous location in that it now runs from the north of the site 88m in total (with 82m immediately alongside the A10) whereas previously the boundary wall was not positioned this far north.

The applicant states that the wall was in disrepair with limited foundations. During the construction of the development part of the wall collapsed onto the public highway, and the applicant states that the wall was unsafe. The remaining extent of wall was then subsequently entirely demolished. The applicant has stated in response to enforcement action that they are keen to resolve this matter. They suggest that in addition to submitting this planning application, they would also make an application for a non-material amendment to application 20/00303/FM conditions 1 and 7. The amendment would refer to this planning consent should this be approved and would provide clarity and consistency between these two applications. This non-material amendment application has now been submitted. The applicant goes on to say that upon the granting of those applications, the wall would be completed in accordance with the approved plans within 4 months (for example) or such other time as may be agreed. They have committed to a Unilateral Undertaking to rebuild the wall, providing the Council with reassurance and an enforceable agreement.

In summary, the principle of development has already been established on the site by the implemented planning consent ref: 20/00303/F and the associate conditions. Enforcement action has been taken to address the removal of the wall contrary to the approved consent. This current planning application is a response to the Breach of Condition Notice served by Planning Enforcement, and the subsequent financial penalty. Therefore, the application is acceptable in terms of the principle of development in accordance with the NPPF, and policies CS06, CS08 and CS11 and DM15 of the adopted Local Plan, and policy WA07 of the North Runcton and West Winch Neighbourhood Plan.

Impact on Form and Character

As a carrstone wall directly adjacent to the A10, the boundary treatment previously played a role in the visual amenities of the street scene. The traditional wall and materials are indicative of historic buildings and walls in the immediate vicinity. It is important to note that the wall was not located within a Conservation Area nor was it a Listed structure and therefore had no protection in its own right. Prior to the planning consent, the landowner could have removed the wall at any time without the need for planning permission.

Paragraph 140 of the NPPF (2023) states that 'Local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).'

Paragraph 209 of the NPPF (2023) goes on to state that 'in weighing up applications that directly or indirectly affect non-designated heritage assets a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.'

The application site falls within the neighbourhood area for the North Runcton and West Winch Neighbourhood Plan (2017). Policy WA07 of the Plan seeks to protect and enhance local character. The policy states-

'Development proposals shall recognise, sustain and develop the distinctive village characteristics of the existing neighbourhoods in relation to building design, spatial layout, height, density, scale, lighting and use of materials.'

This means...materials used in the construction of dwellings, including boundary design, shall be high quality and respond positively to the characteristics of existing properties. The use of traditional local building materials (local brick types, carrstone, pantile) will be strongly supported. Boundary demarcation should embrace 'rural' character, e.g. by using hedging consisting of mixed native species (hawthorn, blackthorn, field maple, hazel, holly, etc.). Unsympathetic boundary design (e.g. unmitigated security railings or Leylandii hedging) will not be supported.'

The loss of the traditional carrstone wall, which previously provided a positive feature in the street scene is considered to represent a retrograde step when compared to the extant approval on site. Given the age of the wall and the possible history attached to it, the wall structure should be regarded as a non-designated heritage asset and on this basis paragraph 209 of the NPPF is relevant. The proposal to rebuild the carrstone wall would reinstate the appearance of this boundary to retain the character of the area. The relocation of the proposed wall further to the north of its original location would also provide betterment by providing a continuation of the boundary wall of the Grade II Listed 'The Gables'. This would make a positive contribution to the setting of this listed building, and this approach is supported by the Conservation Officer.

The Conservation Officer does query the potential quality of the existing historic materials, which have been left in a pile on site, and how much of this would be able to be used in the construction of the wall. Furthermore, any additional/ new carrstone should be carefully sourced to ensure that the wall would not be a new carrstone wall of an inappropriate colour. They request a discussion regarding materials is held prior to the determination of the application. It is our view that a condition should be attached to the consent requiring a suitable sample panel is provided and agreed in writing by the Local Planning Authority prior to the commencement of development. The Parish Council has requested that the wall is inspected to ensure it is as close in appearance to the wall that was lost, and this condition will enable the Conservation Officer to ensure the materials and appearance are of sufficient quality.

In terms of the lower height proposed, any harm caused by this proposed lower height would be negligible provided the wall is of the appropriate appearance and construction.

Under the 2020 planning consent the carrstone wall was to be retained with planting behind, and then set behind the planting the security fence as shown on the approved plans. Under application ref 20/00303/DISC_A the native hedgerow planting scheme was submitted and approved. This same native hedgerow planting scheme has been re-submitted to form part of this application to clarify the proposed boundary treatment along this frontage. The native hedgerow planting scheme remains acceptable. The security fencing and the planting are in place.

The rebuilding of the wall is in line with the NPPF, policies CS08 and CS11 of the Core Strategy (2011) and Policy DM15 of the Site Allocations and Development Management Policies Plan (2016), as well as policy WA07 of the North Runcton and West Winch Neighbourhood Plan (2017).

Impact on Highway Safety

The view of the Local Highway Authority is that the proposed replacement wall would be positioned between approximately 4m - 5m back from the carriageway edge and as this would not impact on visibility splays for the point of vehicle access there would be no objection to the proposal. The proposal is in accordance with the NPPF, policy CS11 of the Core Strategy and policy DM15 of the Site Allocations and Development Management Policies Plan.

Other Material Considerations

The Parish Council queried the wording of the application when submitted as it referred to the wall being 'reinstated'. As the wall would not be identical to that proposed the applicant has amended the description to 'Replacement of Carrstone Wall in connection with planning application 20/00303/FM'.

Enforcement action taken on this site has also included two additional issues; one relating to the area of hardstanding for turning and parking and the second relates to operating hours. These issues do not form part of this planning application as both are outside of the application site ('red line').

CONCLUSION:

The application seeks to regularise/ gain planning consent for the rebuilding of an historic carrstone wall, which formed the western site boundary of the site known as Deerfields, Lynn Road, Setchey and which fronts onto the A10.

The positioning of the proposed wall does differ from the previous location in that it now runs from the north of the site 88m alongside the A10 to the south (with 82m fronting directly onto the road). Previously the boundary wall was approximately 81m in length and did not abut the northern boundary. The previous wall was approximately 1.5m in height, and the wall proposed is 0.9m. While the positioning of the wall is not identical to that before, and the wall is not of the same height, the applicant proposes to rebuild the wall to approximately the same length as the previous structure. The relocation will provide betterment by joining onto the boundary wall of the listed building to the north of the site and extending south.

Given the wall was not a protected structure, nor is in a designated area, it is considered reasonable that the applicant is replacing the full length of wall albeit at a reduced height. The construction of the wall will be secured via condition 1 of this consent and a Unilateral Undertaking by the applicant. The proposal is in accordance with the NPPF and Policies CS08 and CS12 of the Core Strategy (2011) and Policy DM15 of the Site Allocations and Development Management Policies Plan (2016) and policy WA07 of the North Runcton and West Winch Neighbourhood Plan (2017). The recommendation is to approve the application subject to the conditions attached and the Unilateral Undertaking legal agreement.

RECOMMENDATION:

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

- 1 Condition: The construction of the wall hereby approved shall commence before 8 July 2024.
- 1 Reasons: To comply with Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition: The development hereby permitted shall be carried out in accordance with the following approved plans (Drawing Nos 25124-1000 Rev C Site Location Plan, 25124-1001 Rev C Carrstone Wall Layout Plan and 25124-1002 Rev A Proposed Street Scene).
- 2 Reasons: For the avoidance of doubt and in the interests of proper planning.
- 3 Condition: All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation or use of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority. Any trees or plants that within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species as those originally planted, unless the Local Planning Authority gives written approval to any variation.
- 3 Reasons: To ensure that the development is properly landscaped in the interests of the visual amenities of the locality in accordance with the NPPF.
- 4 Condition: No development shall commence on any external surface of the development until a sample panel of the materials to be used for the external surfaces of the wall hereby permitted has been erected on the site for the inspection and written approval of the Local Planning Authority. The sample panel shall measure at least 1 metre x 1 metre using the proposed materials, mortar type, bond and pointing technique. The development shall be constructed in accordance with the approved details and retained in perpetuity.
- 4 Reasons: To ensure a satisfactory external appearance and grouping of materials in accordance with the principles of the NPPF.

(B) REFUSE In the event that the Unilateral Undertaking (to secure the construction of the wall) is not agreed within four months of the date of this resolution to approve.