

AGENDA ITEM NO: 9/1(c)

Parish:	Heacham	
Proposal:	Retention of Existing Toilet Block	
Location:	Toilet Block At E566532 N336866 East of 74 South Beach Road Heacham Norfolk PE31 7BB	
Applicant:	Marshview	
Case No:	24/00911/F (Full Application)	
Case Officer:	Mrs N Osler	Date for Determination: 1 August 2024

Reason for Referral to Planning Committee – Called in by Councillor Parish and Officer recommendation is contrary to the Parish Council recommendation.

Neighbourhood Plan: Yes

Case Summary

The application seeks full planning permission for the retention of an existing toilet block that would supersede extant permission granted under application 19/01626/F.

Application 19/01626/F was granted with a specific condition, Condition 3, that required the toilets to be used solely by agricultural workers working on the land (the wider site / blue land.)

The toilet is not a public convenience, and no physical alterations are proposed either internally or externally. It has been confirmed that the approved treatment plant was installed.

The site lies within Flood Zone 1 as confirmed by the Environment Agency and outside of the Coastal Flood Risk Hazard Zone. However, the land to the immediate west and northwest, including the access, lies within flood zones 2 and 3. Furthermore the site lies within the Environment Agency's Tidal Breach Hazard area. The site is therefore at risk of flooding.

Key Issues

Principle of development
Form and Character, Impact on Neighbour Amenity and Highway Safety
Flood Risk, Drainage and Impact on the Environment
Other Material Considerations

Recommendation

APPROVE

THE APPLICATION

The application seeks full planning permission for the retention of an existing permitted toilet block granted permission under application 19/01626/F.

Condition 3 of the permission restricts the use to agricultural workers working on the wider site (blue land.) The condition therefore excludes the applicant, his family, friends, guests, or those working on the wider site not working in agriculture from using the facility.

The applicant asserts that the condition fails the 6 tests laid down in Planning Practice Guidance and referred to in paragraph 56 of the National Planning Policy Framework (NPPF) which are:

1. Necessary,
2. Relevant to planning,
3. Relevant to the development to be permitted,
4. Enforceable,
5. Precise, and
6. Reasonable in all other respects.

The toilet is not a public convenience, and no physical alterations are proposed either inside or out. It has been confirmed that the approved treatment plant, that has a daily capacity of 40 people, was installed.

The site lies within Flood Zone 1 as confirmed by the Environment Agency and outside of the Coastal Flood Risk Hazard Zone. However, the land to the immediate west and northwest, including the access, lies within flood zones 2 and 3. Furthermore the site lies within the Environment Agency's Tidal Breach Hazard area. The site is therefore at risk of flooding.

SUPPORTING CASE

None received at time of writing report.

PLANNING HISTORY

24/00685/LDE: Not Lawful:04/07/24 - LAWFUL DEVELOPMENT CERTIFICATE APPLICATION FOR EXISTING: Use of site as Recreational Camping and Caravan club. Delegated Decision.

23/00566/PACU6: Prior Approval - Refused: 08/06/23 - Notification for Prior Approval for change of use of agricultural building to a small hotel (C1) (Schedule 2, Part 3, Class R): Appeal Allowed 26/04/24.

23/00022/F: Application Refused: 24/03/23 - Variation of Condition 12 of Planning Permission 12/00197/F: Proposed change of use of existing agricultural buildings to holiday home use.

22/02233/F: Application Permitted: 09/02/23 - REMOVAL OF CONDITIONS 9, 10 ,11 AND 12 OF PLANNING PERMISSION 12/00197/F: Proposed change of use of existing agricultural buildings to holiday home use.

21/02027/PACU6: Prior Approval - Refused: 22/12/21 - Notification for Prior Approval for change of use of agricultural building to a flexible use (Small Hotel (C1)) (Schedule 2, Part 3, Class R.) Delegated Decision.

21/01444/LDE: Not Lawful: 19/11/21 - Certificate of Lawfulness: Use of part of the former grain store (agricultural) as camping showers and toilets.

21/00080/F: Application Permitted: 13/12/22 - Retrospective change of use of agricultural land to provide access, parking and turning to adjacent holiday accommodation granted planning permission under ref:12/00197/F: Committee Decision. Appeal Allowed 26/04/24.

20/00543/PACU3: Prior Approval - Refused: 12/06/20 - Prior notification for the proposed change of use from agricultural building to dwelling house.

20/00523/F: Application Refused: 02/07/20 - Conversion of agricultural Building into 3 holiday Homes, 1 x Guest coffee lounge, 4 x games rooms, 1 x storeroom, 1 x staff rest room, addition of office/reception.

19/01626/F: Application Permitted: 12/02/20 - Change of use from the agricultural building with one existing chemical toilet facility into a staff toilet for 6 or more staff working in agriculture. Delegated Decision.

18/01969/F: Application Refused: 16/05/19 - Change of use from agricultural land to short stay non-permanent camp site and erection of a proposed toilet block. Delegated Decision.

12/00197/F: Application Permitted: 24/05/12 - Proposed change of use of existing agricultural buildings to holiday home use. Delegated Decision.

RESPONSE TO CONSULTATION

Parish Council: OBJECT Grounds of objection are:

1. *Risk of Contamination – Public Health and Environmental Concerns:* It has been identified by Suzi Pimlott that the toilet block in question poses a risk of contamination due to its apparent lack of connection to the foul drainage system. This is particularly concerning given the toilet block's location immediately adjacent to a flood zone. The risk of contamination from this facility could have severe implications for public health, particularly in a sensitive coastal area already subject to poor water quality from unknown sources of contamination.
2. *Impact on Water Quality – Policy 11 of the Heacham Neighbourhood Plan (HNP):* Policy 11 of the HNP emphasises the need to protect water quality, especially in areas adjacent to water bodies and flood zones. The retention of a toilet block without adequate waste management facilities directly contravenes this policy. Any leakage or overflow of waste from the toilet block could further degrade water quality in the area, posing a serious threat to both human health and the local ecosystem.
3. *Aesthetic and Environmental Impact – Preservation of Natural Beauty:* The coastal area around South Beach Road is recognised for its natural beauty and is a significant asset to the local community and wildlife. The potential for contamination from an inadequately managed toilet block undermines efforts to preserve and enhance this environment. The presence of such a risk could negatively impact the area's aesthetic value and diminish its appeal as a natural haven.
4. *Flood Risk and Environmental Sensitivity:* The toilet block is situated adjacent a particularly sensitive area that is vulnerable to flooding. Any incidents of flooding could exacerbate the risk of contamination from the toilet block, leading to significant

environmental damage. The flood risk, combined with the inadequate foul drainage, presents an unacceptable level of threat to both the local environment and public health.

Given these serious concerns, we strongly urge the Planning Committee to reject this application. The retention of the toilet block, as it currently stands, does not align with the principles of the Heacham Neighbourhood Plan, and poses unacceptable risks to the environment and public health.

We believe that alternative solutions must be sought to address the sanitation needs in this area, ensuring they are both safe and environmentally sustainable.

Highways Authority: NO OBJECTION In relation to highways issues only, as this proposal does not affect the current traffic patterns or the free flow of traffic, that Norfolk County Council does not wish to restrict the grant of consent.

Natural England: NO OBJECTION Natural England advises assessing the risks to the natural environment using Impact Risk Zones and Standing Advice.

CSNN: NO OBJECTION Confirmation has been received that there is adequate capacity within the existing system for any increase in use.

Environment Agency: NO COMMENTS TO MAKE

Emergency Planning Officer: NO OBJECTION However, because of its location in an area that during an extreme flood event could become isolated from safe access and egress routes (i.e., become a dry island), I would suggest that the site operators if they have not already:

- Should sign up to the Environment Agency flood warning system (0345 988 1188 or www.gov.uk/flood)
- Prepare a flood evacuation plan to include:
 - Actions to take on receipt of the different warning levels.
 - Evacuation procedures e.g., isolating services and taking valuables etc.
 - Evacuation routes

Evacuation at an early stage will prevent emergency responders putting themselves at unnecessary risk by carrying out hazardous rescues for any occupants trapped on site.

REPRESENTATIONS

None received at time of writing report.

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS10 - The Economy

CS11 - Transport

CS12 - Environmental Assets

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM2 – Development Boundaries

DM15 – Environment, Design and Amenity

NEIGHBOURHOOD PLAN POLICIES

Policy 11: Green Infrastructure

Policy 5: Design Principles

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

National Design Guide 2021

PLANNING CONSIDERATIONS

The main considerations in the determination of this application are:

- Principle of development
- Form and Character, Impact on Neighbour Amenity and Highway Safety
- Flood Risk, Drainage and Impact on the Environment
- Other Material Considerations

Taking each in turn.

Principle of Development:

The principle of development (provision of a toilet block) has already been found acceptable by virtue of extant permission granted under application 19/01626/F for *Change of use from agricultural building with one existing chemical toilet facility into a staff toilet for 6 or more staff working in agriculture.*

The main purpose of the application is to supersede the extant permission with a permission that does not restrict the use of the toilet to agricultural workers by removing condition 3 that requires the building to be used for the sole use of agricultural workers working on the land outlined in blue on the location plan (the wider site.)

The applicant asserts in their planning statement that a new planning permission is sought *“for the following reasons:*

- I. *The terms of extant planning permission 19/01626/F, in particular, Condition 3 are unduly and unreasonably restrictive, preventing use of the toilet facilities by the applicant & his family, friends, guests and non-agricultural staff working on the land.*
- II. *It is considered that Condition 3 does not meet the scope to impose planning conditions as it fails the concept of fairness, reasonableness and natural justice.*
- III. *It is considered that Condition 3 fails to meet the six tests set out in the NPPF and NPPG.*
- IV. *It is considered that the reason for imposing Condition 3 is imprecise, inadequate and intelligible and more onerous than can be justified by planning policy.*
- V. *There will be no internal or external alterations to the existing building so no physical changes affecting the amenity of the area.*
- VI. *The building is situated on private property and cannot be accessed by members of the public, which prevents any intensification of use of the land and moreover questions whether Condition 3 actually serves a useful planning purpose.”*

Paragraph 55 of the NPPF states *Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations...*

Paragraph 56 continues by stating *Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision-making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.* This reiterates the six tests laid down in Planning Practice Guidance.

To summarise, a toilet block exists, and no changes are proposed to that toilet block either internally or externally or in terms of the treatment of waste; this application would not change that.

The only thing that would change is that the use of the toilet would not be restricted to staff working in agriculture on the wider site.

However, a new condition would be appended to any permission granted ensuring that the toilet block could only be used by the owner, those staying on the site in association with the developments permitted under applications 12/00197/F and 23/00566/PACU6 and staff working on the land (identified as blue land on the location plan submitted with the application.) Such a condition would be necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects and would ensure that the toilets could not be used as a public convenience which could materially increase numbers and may impact on highway safety and neighbour amenity and the capacity of the treatment plant itself.

Subject to the proposed amended condition, retention of the toilet block (that already benefits from planning permission) is considered to accord with the overarching aims and objectives of the NPPF and Development and Neighbourhood Plans and specifically to Paragraphs 55 and 56 of the NPPF that relate to the use of conditions.

Form and Character, Impact on Neighbour Amenity and Highway Safety:

As previously stated, no alterations, either internally or externally are proposed and therefore the use of the toilet for people other than agricultural workers would have no impact on form and character.

No change of use is proposed per se other than to enable the toilet block to be used by non-agricultural workers working on the land, the owner, and those staying on the site in association with the developments permitted under applications 12/00197/F and 23/00566/PACU6.

The toilet facility is not a use in its own right and would not therefore generate any activity not already associated with the wider site. Therefore, its retention, subject to a condition being appended as outlined above, would not have a material impact in terms of highway safety or neighbour amenity.

The development is therefore considered to accord with the NPPF in general and specifically to Paragraph 135f) of the NPPF, Development Plan Policies CS08, CS11 and DM15 and Neighbourhood Plan Policy 5.

Flood Risk, Drainage and Impact on the Environment:

The site lies within Flood Zone 1 as confirmed by the Environment Agency and outside of the Coastal Flood Risk Hazard Zone. However, the land to the immediate west and northwest, including the access, lies within flood zones 2 and 3. Furthermore the site lies within the Environment Agency's Tidal Breach Hazard area. The site is therefore at risk of flooding.

However, the flood risk to the site is no greater than when the 2019 application was permitted and therefore the toilet and those using the toilet are at no greater risk than when the application was originally considered or than the current situation.

Furthermore, since Community Safety and Neighbourhood Nuisance's original comments (that form the basis of the Parish Council's objection), it has been confirmed that the treatment plant is the same as the one permitted under the 2019 application which has a daily capacity of 40 people. The treatment plant can therefore accommodate the minor use associated with the wider site, which, for clarification purposes only, comprises:

- Three holiday homes approved under application 12/00197/F (which all have their own toilets), and
- Prior Approval for the change of use of agricultural building to a small hotel which was allowed at appeal under application 23/00566/PACU6. This permission has yet to be implemented and requires a decision to be made under regulation 77 of The Conservation of Habitats and Species Regulations 2017 to confirm that the development would not adversely affect the integrity of European protected site before the development can be begun. Additionally, it is likely that the hotel, if it can be shown that it would not adversely affect protected sites, would have its own toilet.

In that regard it can be confirmed that there is nothing to suggest that the use of the toilet for people not associated with agriculture and subject to the condition outlined previously would exceed its capacity and it would not therefore have an unacceptable impact in relation to flood risk, drainage, or the environment.

It should be noted that the condition proposed by the Emergency Planning Officer is not considered to be necessary or reasonable given that the toilet facility is not a use or destination in its own right and anybody using the toilet would be on the site for a broader purpose.

The development is therefore considered to accord with the NPPF in general and specifically to Chapter 14 of the NPPF, Development Plan Policies CS01, CS08 and CS12 and Neighbourhood Plan Policy 11.

Other Material Considerations:

There are no other material considerations.

Specific comments and issues:

The above report has confirmed that the Parish Council's objections regarding risk of contamination, impact on water quality, environmental impacts and environmental sensitivity, which were based on CSNN's original comments, have been resolved by confirmation of the treatment plant and its capacity.

CONCLUSION:

The toilet block exists, and no changes are proposed to that toilet block either internally or externally or in terms of the treatment of waste; this application would not change that.

The only thing that would change is that the use of the toilet would no longer be restricted to staff working in agriculture on the wider site.

However, a new condition would be appended to any permission granted ensuring that *b* 'The toilet block hereby permitted shall only be used by the owner, those staying on the site in association with the developments permitted under applications 12/00197/F and 23/00566/PACU6, and staff working on the land (identified as blue land on the location plan submitted with the application.)'

Given that the treatment plant has a specific capacity such a condition is necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects and would ensure that if any future permissions were granted / allowed on the site that the capacity of the installed treatment plant would not be exceeded. Such a condition would be necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects and would ensure that the toilets could not be used as a public convenience which could materially increase numbers and may impact on highway safety and neighbour amenity and the capacity of the treatment plant itself.

It is therefore recommended that this application be approved subject to the following condition.

RECOMMENDATION:

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

- 1 Condition The toilet block hereby permitted shall only be used by the owner, those staying on the site in association with the developments permitted under applications 12/00197/F and 23/00566/PACU6, and staff working on the land outlined in blue on the Location Plan that accompanied the application (Plan Reference Number: TQRQM18078140756248).
- 1 Reason For the avoidance of doubt and to ensure the use of the toilet block is not used as a public convenience and does not exceed its capacity which could lead to unacceptable environmental impacts in accordance with the NPPF, Development Plan Policy CS12.