

AGENDA ITEM NO.8/1(a)

Parish:	Snettisham	
Proposal:	Proposed Detached Home Study	
Location:	Ingol Falls House, Mill Gardens, Snettisham, PE31 7UQ	
Applicant:	C Singh	
Case No:	21/00716/F (Full Application)	
Case Officer:	Connor Smalls	Date for Determination: 2 July 2021 Extension of Time Expiry Date: 7 December 2021

Reason for Referral to Planning Committee – Called in by Councillor Deveraux

Neighbourhood Plan: Yes

Members Update

Members will recall that this application was deferred in the November 2021 Committee. This was due to a conflict between the consultation end date for the latest site notice which detailed that the application would impact a public right of way and the committee meeting date. Further, extensive additional correspondence from the Open Spaces society was received.

The site notice end date has now expired and the additional correspondence from the Open Spaces Society is included in this updated report. It is considered this clarifies the previous reasons for deferral and that the application can now be considered by Members.

New additional text is set out in bold.

Case Summary

This application proposes a single storey, detached outbuilding set within the residential garden space of the existing dwelling, Ingol Falls house.

Key Issues

Principle of Development
Form and Character
Impact on Neighbour Amenity
Impact on the Grade 11* Listed Mill

Recommendation

Approve

THE APPLICATION

This application proposes a single storey, detached outbuilding to serve as a home office set within the established garden land of the existing dwelling. The application site is set within the sensitive existing residential area around the River Ingol and associated mill pond including the Grade II* Listed Mill. There are trees subject to tree preservation orders as well as extensive mature vegetation within the application site and wider area. The application site is outside of both the Snettisham Conservation Area and the Norfolk Area of Outstanding Natural Beauty.

SUPPORTING CASE

To whom it may concern,

I write regarding application reference 21/00716/F and my statement focuses on the reasons for the home office and also the concerns that have been raised.

My client has made an application for the erection of a detached home office for several reasons -

- The first being that COVID-19 has necessitated that my client is to work from home. The guidelines set by the government are not within my clients control however my client is obliged to follow these guidelines.
- Her circumstances will not change, and I feel it reasonable to suggest a long-term solution is called for to meet the requirements to be able to work from home.
- My client doesn't currently have suitable office/study provisions to work from home. At present the existing dwelling doesn't allow for this due to the open plan layout; there is no way of dividing the space to separate the two elements (home life and work) and maintain a sustainable work-life balance.
- My client did explore the feasibility of having an extension prior to submitting this application. There is no practical location to extend without causing huge disruption to the dwelling.

I would now like to address the main concerns regarding this application -

1- Apprehension felt about the impact that the detached office would have on the 'views'.

My client's site is located at the very end of the shared driveway, and other residents of the neighbouring properties do not pass my client's site.

The only way for anyone to pass my clients site is via the public footpath which routes adjacent to my clients boundary; the boundary comprises mature landscaping of approximately 2.2m high, the only visible member of the detached office to/from the footpath would be the roof, from a distance.

The drawing 21-P10-PL010 demonstrates the views from several locations and identifies that the detached office wouldn't be visible from said location, consequently, having little or no impact whatsoever on the views in question.

2- Footpath FP18 within the current garden boundary

The current footpath is routed completely outside of the property along the southern perimeter and has been in this location for c.40 years.

A retrospective map modification is required to formalise the change and a Section 257 has been submitted to update historical records of the location of the public footpath.

I would like to stress that my client has lived at Ingol Falls House for 15+ years and at no point, has my client amended the layout and/or boundary line of the site; it is within my clients interest ethically to ensure that this finding is dealt with genuinely and officially via the appropriate authority, regardless of the outcome of this application.

3- The FFL and height of the building has been topical throughout this Application.

I can confirm that the FFL is the same as the existing dwelling and cannot be reduced since my clients site is located within flood zone 3b; the most at risk land of flooding. The height of the single storey detached office is lower than the existing dwelling; at best by 1.3m, at worst by 571mm, nevertheless still lower.

All the required consultations have taken place with all relevant authorities and all of which have not objected.

In summary, the proposed home office has been sensitively sized and sited at the furthest point from neighbours to negate any perceived impact. All concerns around the proposed small, detached home office would have to neighbouring residents have been addressed and protecting and preserving the historic environment has been duly considered.

I cannot express strongly enough how much the applicant is relying on this small home office to improve their mental well-being and capacity for a satisfactory work/life balance.

PLANNING HISTORY

21/02057/S257: : ONGOING - Retrospective Application for the diversion of a Public Right of Way

15/00049/TPO: TPO Work Approved: 13/10/15 - 2/TPO/00488: T1 Beech - whole tree removal. T2 Silver Birch - whole tree removal. T3 Silver Birch - whole tree removal.

13/00032/TPO: TPO Work Approved: 11/06/13 - 2/TPO/00434, 2/TPO/00487, 2/TPO/00488 - T1 Beech - Light crown thin. T2 Beech - Crown thin and prune back branches by approximately 2.5m. T3 Alder - Remove to allow adjacent Alder to reach full maturity. T4 Ash - pollarding to 7m high.

06/00087/F: Application Permitted: 15/03/06 - Construction of footway bridge over river

09/01932/F: Application Permitted: 07/01/10 - Conversion and extension of existing garden store and toilet to form dressing room

07/01194/F: Application Permitted: 13/08/07 - Single storey extension to dwelling and attached double garage

11/00022/TPO: Tree Application - Partial: 17/05/11 - Removal of willow tree and works to silver birch and pine tree - 2/TPO/00434

07/00755/F: Application Withdrawn: 23/04/07 - Construction of detached double garage

05/01544/F: Application Withdrawn: 12/08/05 - Construction of storage shed and insertion of 2 new windows to dwelling

05/01655/F: Application Permitted: 02/12/05 - Retention of dwelling and external storage building

11/00048/TPO: TPO Work Approved: 14/09/11 - Re-spacing along line of mature Beech Trees along rear boundary, Poplar Tree removal, re-spacing of mature Silver Birch Trees to allow under-planting and prune back limb of Beech Tree by 5 meters - 2/TPO/00488

2/03/1613/F: Application Permitted: 30/03/04 - Construction of bungalow with integral garage (amended design)

2/02/1663/F: Application Permitted: 24/06/03 - Extension and conversion of house into 2 houses and construction of one dwelling and garages (Amended Design)

RESPONSE TO CONSULTATION

Parish Council: NO OBJECTION

Highways Authority: NO OBJECTION

Conservation Officer: NO OBJECTION

Given the other development much closer to the mill building itself, along with the mature and wooded garden space between the two structures, this proposal will cause negligible harm to the setting of the mill. On this basis no conservation objections.

Historic England NO OBJECTION

Historic England has no objection to the application on heritage grounds in principle but would recommend the Council considers the potential prominence of the proposed building in the setting of the listed watermill due to its height and glazing and the effect any loss of planting might have before determining the application. If appropriate the Council might seek amendments to reduce any harmful impact and better achieve the NPPF's overarching aim of promoting sustainable development.

If the issues and safeguards outlined in our advice are addressed, we would consider that the application meets the requirements of the NPPF, in particular paragraph numbers 7, 8, 193, 194 and 196. In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

Public Rights of Way (NCC): NO OBJECTION

If approved this application will illegally obstruct the legal alignment of the Snettisham footpath 18. Therefore, no construction work can take place until the footpath has been successfully diverted under T&CPA s257 by the Planning Authority. This information will be included as an informative on the decision if approved.

Norfolk County Council PROW Officer: Provides a response to the Open Spaces Society's correspondence included in the officer report:

- **What OSS describe as “completely undeveloped land”... is all enclosed garden land and appears to have been so for many years.**
- **Description of “pasture” referred to in the Definitive Statement is not really relevant...land became enclosed gardens/grounds to private dwellings. The used path is generally hidden behind fencing and hedging and the visual impact from the path is likely to be minimal.**
- **Original Planning App did not consider the existence of the footpath as it was believed by applicant that the path ran along established used route outside the garden boundary.**
- **It is correct that there is no formal retrospective process ... the used path has been physically located around the outside of the perimeter of the garden for in excess of 40 years and the proposal is to regularise the use of the publicly accepted route.**
- **Para 11/12/13: NCC have carried out investigations into the history of the path ... The description in the dedication document of 1949 actually, provides the width of 3 feet for the footpath, the details within the Dedication agreement will be considered as supporting the Definitive Statement.**
- **...A short section of path was likely mis-drafted and as a result, at least on paper, remains in the garden and subsequently revealed to be affected by the proposed development. The used route remains a long established and accepted one around the perimeter of the garden. In consequence the application to move the path is merely taking the opportunity to correct what is in likelihood a 70-year-old drafting error, for a comparatively short stretch of footpath.**
- **Under T&CPA legislation the proposal is designed to stop up a section of the original route and provide a “reasonable alternative”. In my opinion, the used route is quite likely to be the originally intended route and appears to have been acceptable to the public for as long as anyone remembers.**

Internal Drainage Board: NO OBJECTION

We note that the applicant has not identified or provided a drainage strategy for the site within their application. If a surface water discharge is proposed to a watercourse, then the proposed development will require land drainage consent in line with the Board's byelaws (specifically byelaw 3). Any consent granted will likely be conditional, pending the payment of a Surface Water Development Contribution fee, calculated in line with the Board's charging policy (https://www.wlma.org.uk/uploads/WMA_Table_of_Charges_and_Fees.pdf).

If this proposed development is to include welfare facilities then the appropriate connections must be made for foul waste disposal. If the applicant wishes to discharge treated foul water to a watercourse from for example, a sewage treatment plant, then this proposal will require land drainage consent in line with the Board's byelaws (specifically byelaw 3).

We note the presence of a Board Adopted watercourse, the River Ingol (DRN128P0801), within the site boundary, and that the applicant intends to do works within 9 metres of this watercourse. Therefore, consent is required to relax Byelaw 10 (no works within 9 metres of the edge of drainage or flood risk management infrastructure).

Whilst not currently proposed, should the applicant's proposals change to include works to alter the Board Adopted River Ingol (DRN128P0801), consent will be required under the Land Drainage Act 1991 (and byelaw 4).

We note the presence of a watercourse which has not been adopted by the Board (a riparian watercourse) within the site boundary. Whilst not currently proposed, should the applicant's proposals change to include works to alter the riparian watercourse, consent will be required under the Land Drainage Act 1991 (and byelaw 4).

Environment Agency: NO COMMENT- refer to standing advice.

Arboricultural Officer: NO OBJECTION with a condition recommended.

Open Spaces Society: OBJECT:

I write, on behalf of the Open Spaces Society, about the above-mentioned planning application, and associated application for the diversion of a public path, which have only recently come to our attention. As Britain's oldest national conservation body, we have great concern for common land, public paths, open spaces, and the public's ability to enjoy the natural beauty of the countryside.

The proposed development is located within what is, here on the south side of the river, completely undeveloped land. It is introducing development into this undeveloped, unspoilt landscape. Moreover, the land concerned, associated with the River Ingol, is of high visual amenity.

This would not perhaps matter quite so much if the land was tucked out of the way, well removed from public view. However, that is far from the case here. A public path – the Snettisham Footpath No. 18 – passes through the land, providing the public with invaluable amenity, through this land in close proximity to the River Ingol and associated weir.

The Norfolk County Council's definitive statement describes the path thus:

“Starts from Footpath No. 17 about 20 yards south of the Mill, by a field gate and runs eastwards along the lower edge of pasture to planks over stream with part iron and wood rail. Beyond it continues through two pastures to fence of rough wood rails after which it continues along the edge of the river Ingol to a stile which gives access to the King's Lynn Road (A.149).”

We note the description of the “pastures” through which the path is described as passing, and on which it is now proposed to build the proposed development, on the actual path alignment. The proposed building has clearly been located with no regard whatsoever to the public's enjoyment of this visual amenity. Such has been this carelessness – so close would the building be located to the path – that it would actually be necessary to move the path!

We object, because the proposed location of the building is completely unacceptable. There does not appear to be any good reason why it could not instead be located much further away from the public path, thus reducing its harmful, intrusive visual impact upon the public.

It is a matter of concern to read that, on the application form for planning permission (your ref: 21/00716/F), the applicant claimed that the proposed development would not “require any diversions, extinguishment and/or creation of public rights of way”, which is clearly not the case. Also, no mention of the public path is made in the Design and Access Statement. Both these things seem strongly to suggest that the existence of the public path was not properly taken into account, when the proposal was being formulated by the applicant.

We would also specifically object to the proposed diversion of the public path, which would be moved onto what would appear to be a less convenient alignment, and which would remove it further away from what makes this area visually special.

Some of the entries in the application form for the diversion of the public path (your ref: 21/02057/S257) give cause for much concern. The applicant claims that the public path was “diverted some 40 plus years ago”, and the term “retrospective” has been taken up, even by your council in its consultation. This is a cause for concern, inasmuch as there is no provision in law for the “retrospective” diversion of a public path, and the use of such a term may well mislead consultees/members of the local community, giving the totally false impression that the “diversion”, which the applicant claiming occurred “40 plus years ago”, was somehow legitimate, lawful or acceptable.

No such diversion is reflected in the Norfolk County Council's definitive map and statement. Unless any evidence can be adduced to substantiate a claim of legal diversion, then any such “diversion” would have been illegal. The highway authority, under successive highway acts (currently Section 130 of the Highways Act 1980), will have been under, and will still be under, an ongoing duty “to assert and protect the rights of the public to the use and enjoyment of” Snettisham Footpath No. 18 on its one and only legal alignment, as opposed to any other alignment. Furthermore, under Section 27(4) of the Countryside Act 1968, the highway authority has, for more than 50 years, been under, and remains under, a duty to erect such signposts along Snettisham Footpath No. 18 as may be necessary to assist persons unfamiliar with the locality to follow its course – that is to say, its one and only legally correct course. The highway authority will also have been under an ongoing duty to maintain all publicly maintainable highways in this area, including public paths – again, on their correct, legal alignments.

If it is the applicant's genuine understanding that the path here was “diverted 40 plus years ago”, whereas that was not, in fact, the case, then this would certainly seem to give rise to the view of a long-term failing, on the part of the highway authority, in terms of its statutory duties towards the correct alignment of the path. It is open for you to communicate with them, about this; in particular, into what specific actions they have got recorded as having been taken, by them, over past years and months, in pursuance of their statutory duties towards the correct, legal alignment of Snettisham Footpath No. 18.

You, in your capacity as local planning authority, should take care to consider this development proposal as though the correct alignment of the public path is the one clear, open and apparent on the ground, and the one in use by the public. At the same time, you will need to be cognizant of the distinct possibility that the public – even the applicant - have been misled into understanding that the path did indeed get “diverted 40 plus years ago”. Another decidedly dubious claim made by the applicant, on the form, is that the existing path has a legal width of 3 feet. The definitive statement is, in fact, silent on the matter of the path's width. Three feet is an extremely narrow legal width for a public path typically to have. Overall width usually will be greater than that of any visual trodden path on the ground. We would submit that the existing path here will, in fact, most likely have a greater width than three feet, over the open pasture land recorded in the definitive statement, unless there is evidence that the public have somehow, always been restricted to a strip of a mere 3 ft in width.

Late correspondence to previous Committee meeting- Para 2:

Issues were raised regarding late publication declaring that this application would affect a public right of way, lack of consultation and queries as to which bodies were re-consulted.

Additional Correspondence dated: 05/11/21. Additional comments raised are outlined below (Repeated comments are not included and the response is summarised for clarity).

- **Mr. Mills (NCC PROW Officer) describes documentary evidence, dating from 1949, discovered by the county council which has led to the mapping of the path's legal alignment but expresses an opinion that it is likely that the legal alignment was mis-drafted, and cites the apparently accepted and well used nature of the physical route on the ground.**
- **It is not the purpose of any part of the Town and Country Planning Act 1990 to correct alleged drafting errors on a map, to resolve any uncertainty as to the precise, legal alignment of a public path, nor to “regularise” a situation perceived, maybe by some, to be already accepted.**
- **Snettisham Footpath No. 18 cannot have two routes; only one route can be the correct route. It would be wholly inappropriate... to determine this planning application considering Snettisham Footpath No 18 as though it followed the physical route on the ground, but then (if having granted planning permission) to make an order under s.257 purporting to divert the legal route, just to resolve any perceived 'uncertainty'.**
- **There is absolutely nothing incompatible with a garden and a public path. The writer of the report to your council's Planning Committee agrees that the land crossed by Route A is of high visual amenity. Gardens can, in fact, give rise to some of our most beautiful and enjoyable public paths!**
- **A building of this sheer size/scale is completely without precedent on this area of land. We understand that the footprint of the proposed building is such that it is equivalent to a one bedroom apartment, and it would have a height of over 5 metres, which is equivalent to that of a bungalow ridge. There seems no justification in allowing such a building to be located in such a sensitive and damaging location, to the public, as that proposed.**
- **It is not a legitimate purpose of the Town and Country Planning Act 1990 to “formalise” a physical route which may have come into existence separately from the legal route of an existing public path.**
- **The land may have become more garden-like, compared with the “pastures” described in the county council's definitive statement... The “garden” crossed by the legal route forms part of some quite extensive grounds, as opposed to intimate, “domestic” garden space located close to a dwelling.**
- **It is the effect, of the proposed development, upon the legal route of Snettisham Footpath No. 18 that the local planning authority must consider, notwithstanding that an “alternative” route may, for some reason, have come into physical existence.**
- **Section 257 does involve a separate process enabling the stopping up or diversion of public paths where necessary to enable approved development to get carried out. However, the time to consider the effect of the proposed development upon the existing public right of way is in the determination of the planning application.**

REPRESENTATIONS

TWELVE individual items of correspondence in **SUPPORT** in regard to the following:

- Extensive screening and distance from neighbouring properties
- Only slightly visible from public footpath
- Does not impact physical route of footpath
- No impact on listed mill
- Small scale development
- High quality design
- Proposed use is in direct association with the main dwelling
- Home working should be supported
- In keeping with surroundings

TWENTY OBJECTIONS from one member of the public

SEVEN OBJECTIONS from one member of the public

FOUR OBJECTIONS from one member of the public

THREE OBJECTIONS from one member of the public

FOUR individual **OBJECTIONS**

Objections in regard of the following:

- Development south of the River Ingol
- View from Public Footpath
- Impact on Grade 11* Listed Mill
- Flood risk
- Delivery of materials
- Trees including TPO's
- Overlooking- orientation of dwelling
- Not compliant with Snettisham Neighbourhood Plan policies NP01, NP04, NP08 and Community Aim 2.
- Use of building as a dwelling
- Too large in overall form and scale including floor space, ridge height and visual dominance
- Increased use of access and sewerage system
- Set a precedence for further development.
- Outside of development boundary
- Proposes 'habitable' space
- NCC Footpath route
- Conduct of agent, council and 'bullying' on the public access website.

THREE additional letters of **OBJECTION** regarding:

- **The definitive route of the footpath and associated S257 application and publication within the press;**
- **Consider that the NCC has not complied with its legal duty to ensure that the route is per the definitive footpath;**
- **Should ensure that the physical route should comply with the definitive map thereby allowing the public to view the Mill, Mill pond and its picturesque weir which cannot be seen from the current illegal route;**
- **If the footpath is in its correct position the application cannot be approved;**
- **Queried whether the S257 application would be considered and raised significant concerns as the S257 is a statutory procedure and cannot be bypassed or foreshortened.**

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS12 - Environmental Assets

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM15 – Environment, Design and Amenity

NEIGHBOURHOOD PLAN POLICIES

Policy NP05 – Materials and Design

Policy NP08 - Heritage

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

National Design Guide 2019

PLANNING CONSIDERATIONS

Principle of Development

An outbuilding within the established garden land of a dwelling is generally supported in principle subject to compliance with local and national policy. The proposal development is within the established garden land of the main dwelling and the use proposed, 'home office' is considered an incidental use to the main dwelling. As such, the principle of such an outbuilding is supported. However the detailed impacts of the proposal need to be addressed.

Form and Character

This application proposes a single storey, detached outbuilding creating new habitable space serving as a 'Home Office' within the residential garden land of the main dwelling. The application site is split into a northern and southern half by the River Ingol with the main dwelling and associated development to the north and the remainder of the plot to the south. The outbuilding is to the south of the site, located towards the southern and western boundaries and the adjacent footpath surrounded by mature vegetation.

The proposal has significantly reduced in size from the original submission to the current proposal. The width has reduced by approximately 2.8m, the depth has reduced by approximately 0.4m and the height has reduced by approximately 0.5m. As such, the outbuilding is now shorter and of a much smaller footprint. The dimensions of the outbuildings are now as follows (approximately): 5.6m in width, 5.6m in depth (7m including the small front balcony) and 5.1m in height. Whilst still of a reasonable height, the outbuilding is raised by around 0.7m from floor level due to the proximity to the River Ingol which adds to the overall height.

Overall, the size and scale is much reduced ensuring that the outbuilding is less prominent and of a more in keeping scale with the main dwelling and wider area. Materials are shown to take inspiration from the main dwelling and are mostly matching. This includes matching roof tiles, windows and doors as well as the timber boarding elements of the main dwelling. This can also be said for the overall design, whilst prominent, the side (west) glazed gable takes direct inspiration from the main dwelling. This visually ties the two buildings together and helps create a combined character to each side of the plot over the river. This is not necessarily a requirement for the design of an outbuilding, they often do not match the main dwelling, but it does add a design merit to the proposal, taking account of the whole site. The final impact of this outbuilding, in relation to the main dwelling, is one of an in keeping and acceptable nature. The size and scale is clearly subservient to the existing dwelling but it also relates suitably to the existing character and design.

It is of note that there is limited development to the south side of the River Ingol, this forms one of the main constraints to the proposed development. However, as stated this is an in scale and appropriately designed outbuilding with a suitable spatial relationship to the existing residential dwelling. This is a level of development that is generally supported, made further acceptable by the exact design and scale of this proposal. Alongside this, whilst limited, development to the south of the river is present to the east of the site. This includes a residential dwelling of a reasonable size and scale. Officers therefore consider that it would be unreasonable to refuse the proposed outbuilding based on its location.

Finally, whilst views are, in places, open across the water to neighbouring dwellings to the west, the proposed outbuilding will be significantly screened by vegetation and is a substantial distance from the edge of the application site to the west (40m). As such it will not have an adverse visual impact to neighbouring dwellings. It is of note that there will be notable views from the footpath to the south and east of the plot. However, these views will be somewhat screened by vegetation. It is also of note that the design is considered suitable and in keeping with the main dwelling. As such, when visible, the outbuilding will not detract unduly from the public views from the footpath. Residential development is currently visible, and this will not significantly change with the addition of this outbuilding.

A condition would be attached to any consent ensuring that the outbuilding remains incidental to the main dwelling.

Impact on Neighbour Amenity

There will be no adverse impact on neighbouring amenity as a result of this proposed outbuilding. There are only neighbouring dwellings immediately to the west of the plot, the north is screened by the main dwelling and the footpath is to the east and south. As stated, there is a distance of approximately 40m to the western boundary of the plot and then further distance to neighbouring dwellings themselves. The plot is significantly screened, and the outbuilding will be at a lower ground level than the western boundary of the plot due to the downward slope towards the south east. The combined effect of this is a structure that is a significant distance to the boundary and that this screened to a reasonable level.

As such, there will be no overbearing or overshadowing impacts due to distances and the size and scale of the outbuilding. There will also be no overlooking issues. Despite the large glazed gable there is a significant distance to the boundary and views will be somewhat screened. These factors combine to create little to no opportunity for adverse overlooking to the west.

Impact on the Grade II* Listed Mill

The proposed outbuilding is over 100m from the Historic Listed Building, Snettisham Mill.

Historic England offered no objection to this scheme but did require the council to consider the potential prominence of the proposed building in the setting of the listed watermill due to its height and glazing and the effect any loss of planting might have. However, no loss of planting is proposed and the scheme has since been reduced in scale. As such, the issues raised by Historic England are considered to have been addressed. The proposal is therefore compliant with paragraphs 7, 8, 193, 194 and 196 of the NPPF

The Conservation Officer also offered no objection based on harm to the setting of the mill. This is due to established built form much closer to the mill itself as well as the mature and wooded garden space between the two structures.

Overall, it is considered that based on the large distance between the structures, the level of screening and the reduced size and scale of the outbuilding, that there will be no harm to the setting of the listed building.

Other Considerations

Footpath- NCC Public Rights of Way

The current route of Snettisham footpath 18 legally runs through the application site and through the location of the proposed development, as shown on the definitive map. However, the footpath has been maintained for a significant period of time following an alternative route adjacent to the applicant's plot. Information provided by the applicant states that the footpath has been maintained in its current physical location circa 40 years. This means that whilst the development would technically block the legal right of way the actual, physical footpath that has existed for decades would not be impeded.

NCC Public Rights of Way do not object to the application but they make the following comment:

"If approved this application will illegally obstruct the legal alignment of the Snettisham footpath 18. Therefore, no construction work can take place until the footpath has been successfully diverted under T&CPA s257 by the Planning Authority."

Such an application has already been submitted to rectify the legal route of the public right of way and amend it to its physical location on the ground, which has been in place for circa 40 years as stated above. Therefore, as this issue arises from time to time, NCC PROW team confirm that this application can be approved with the caveat that no development can take place until such a time that the Town and Country Planning, Section 257 application has been approved. This would regularise the legal route situation with the longstanding physical route of the footpath and ensure no further discrepancy exists.

A condition has not been recommended, as such a condition would duplicate the separate statutory procedure that exists for diverting or stopping-up the right of way (in this case the Section 257 application) and such a condition would be outside of the applicants control.

Planning advice is that other legislation should not be duplicated. If the footpath is not diverted through the S.257 application for whatever reason, there is the risk that action can be taken by the PROW team. Given the existence for decades of the current footpath alignment, this is likely to be a theoretical risk, but nevertheless that would be a risk for the applicant. Although the applicant is fully aware it is recommended that an informative be attached to any consent.

Independent legal advice has confirmed that a planning application can be approved if the development will impede a legal public right of way. As previously detailed, no construction can take place until such a time as a diversion is legally approved. For clarity, this application will impede the legal alignment of Snettisham Footpath 18. However, the section 257 Application that has been submitted , if permitted, would allow the diversion of the footpath. If it was refused, the proposed home study could not be built in its current location.

Footpath- Open Spaces Society

The Open Spaces Society officer objects for a multitude of reasons, it is especially of note that many of these reasons for objection relate to the Section 257 T&CPA application to amend the legal route of the footpath. Whilst this application will need to be submitted, permission can be granted for the development, the onus is then on the applicant to submit an application (which they have already) to resolve the legal route of the footpath before any construction can take place, as detailed above.

The first reason for objection relates to the south side of the River Ingol being 'completely undeveloped, unspoilt landscape' they also state that the land around the river is 'of high visual amenity'. Whilst there is no disagreement that the land around the River Ingol is of high visual amenity it is incorrect to state that the land is undeveloped and unspoilt. The land in question forms part of the applicants long established garden land, this includes extensive domestic planting and screening alongside a bridge for access from the main dwelling and a small shed and summerhouse. The character of this area is clearly domesticated and is regarded as garden land.

The objection then raises the issue that as 'Snettisham Footpath No.18 passes through the land' it 'provides the public with an invaluable amenity... in close proximity to the River Ingol'. However, this is incorrect, whilst the legal route follows this course, the physical route is outside of the applicant's garden land and follows an alternative, established and maintained, physical route, set away from the area in question.

Regarding issues of a lack of consideration of the footpath in early documents and the Design and Access Statement, this issue was only realised throughout the progression of the application due to the established physical route of the existing footpath.

The objection is also to the diversion of the footpath itself, and as stated this is not the consideration of this planning application. These issues will instead be dealt with under the submitted Section 257 T&CPA Application, to divert the footpath. Planning permission can be granted as detailed, with the caveat that this diversion application is submitted and approved before construction can begin, otherwise the applicant may be at risk of action under separate legislation. The outcome of the Section 257 application is a separate matter for consideration and should not form the basis for a decision on the planning merits of the current proposal.

In terms of the consultation process, the issue relating to the route of the footpath was only discovered during the progression of the application therefore it was publicised as affecting a public right of way once the issue was known. All parties

(statutory consultees) originally consulted were re-consulted when advertising that the development affected a PROW. The issue of diverting the public right of way will not be decided in this planning application but instead via the entirely separate application under S257 of the Town and Country Planning Act 1990 (as amended).

Legal matters raised regarding the footpath diversion are mostly relevant to the Section 257 application.. The physical route on the ground is currently not legally regarded as a footpath and is not a legal route. However, this is the purpose of the S257 application which would seek to divert the route of the legal alignment to that indicated on the ground. Notwithstanding the above, Members only need to consider the planning merits of this proposal.

The Open Spaces Society's comments go on to mention that the existing legal alignment would provide the public with a far better amenity than the physical route on the ground. However, it is noted that there are no views to the listed mill from the legal route due to extensive mature vegetation and views of the river are limited due to land levels.

Flood Risk

The Environment Agency refers to their standing advice due to the level of development proposed, a householder outbuilding.

Based on the Strategic Flood Risk Assessment Procedure (2019) Householder Applications require the householder proforma only, this has been submitted with this application. Regarding access and evacuation, the proposed outbuilding is raised from ground floor level and therefore has access to an upper level, high ground is also available and is readily accessible towards the main dwelling. Based on the direct association and close proximity and use with the main dwelling it is considered that there is a suitable relationship in the event of a flood warning. Flood warning advice would also be included as an informative on any consent granted. The floor level of the building will be over 600mm from ground level. All of the above is in compliance with the Environment Agency standing advice and the Strategic Flood Risk Assessment Procedure.

Public Objections

Objections regarding; NCC footpath, development south of the River Ingol, views from the public footpath, impact on Grade II* Listed Mill, flood risk, overlooking including the orientation of dwelling, overly large in overall form and scale including floor space, ridge height and visual dominance have already been addressed in the above report.

Regarding delivery of materials, it is not felt to be reasonable to impose a condition relating to this issue due to the limited scale of development proposed and temporary nature of construction.

Regarding trees including TPO's, an Arboricultural Report and plan has been submitted and the Arboricultural Officer raised no objection.

Regarding policies in the Snettisham Neighbourhood Plan, Policy NP01- Residential Allocation is not relevant to this application as it refers to the development of around 40 dwellings at Poppyfields. This application is not for a residential dwelling and is not associated with that site. NP04- Permanent Homes, Policy and associated Community Aim is again not relevant as this is not an application for a new dwelling. NP08- Heritage, heritage issues have been addressed in the above report. Community Aim 2- Open space is

not relevant to this decision as it does not relate to this level of development. An outbuilding within established residential garden land does not fall within the scope of this policy.

Regarding the potential use of building as a dwelling, the proposal states that the outbuilding will serve as a home office. It will not be permitted as a dwelling and a condition will be attached to ensure the use remains incidental to that of the main dwelling and is at no time used as a separate unit of accommodation. A condition would be attached to any consent granted restricting the use of the building for sleeping accommodation for clarity.

Regarding the increased use of access and sewerage systems, an incidental outbuilding will not significantly alter vehicular trips to and from the dwelling and it would not be reasonable to impose any related condition for this level of development. The outbuilding is not shown to use any sewerage system so this is not relevant to this decision.

Regarding the proposal setting a precedent for further development, this is a small outbuilding incidental to the main dwelling. This is a common structure within the garden land of a dwelling. Buildings are already present south of the river within the locality and as such, it would not be reasonable to refuse this application on such a basis.

Whilst the outbuilding is located outside of development boundary it is in association with an existing dwelling within established garden land. As such the principle of development is acceptable.

Regarding the proposed 'habitable' space, this does not mean the proposal is for a dwelling. Habitable rooms are generally defined as rooms used for dwelling purposes and include a variety of uses. Bathrooms and utility spaces are not generally classed as habitable space.

The conduct of agent, council and various accusations on the public access website have been addressed through the council's complaints procedures. Any future concerns in this regard would need to be addressed further through the complaints process and are not material to the planning merits of the case.

Additional public comments have been received which raise issues around the definitive route of the footpath and associated S257 application, publication within the press, NCC's legal duty to ensure that the route is per the definitive footpath and associated views made available to the public. These matters have been addressed above.

CONCLUSION

Whilst the outbuilding is located outside of the development boundary it is within the residential garden land of the dwelling. As such the principle of development is acceptable.

The design is considered to be of an appropriate scale given the main dwelling and immediate locality, the materials are shown to be in keeping and relate well to the existing dwelling. There will be no adverse impact on neighbouring amenity and the proposed relationship of the outbuilding and neighbouring dwellings is demonstrated to cause no adverse impacts.

There will be no adverse impact on the Grade II* Listed Mill or any trees (Including TPO trees) and vegetation with no trees adversely impacted as a result of the development. Flood risk is demonstrated to be acceptable and associated controls are proposed for any consent.

The legal issue with the Public Right of Way is being considered separately, with the appropriate application to formalise the physical route, and any issues that raises would have to be dealt with under that particular legislation.

It is therefore recommended that Members approve this application.

RECOMMENDATION:

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

- 1 Condition: The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 1 Reason: 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: PROPOSED SITE PLAN, Drawing Number: 21-P10-PL003A and PROPOSED PLANS & ELEVATIONS, Drawing Number: 21-P10-PL002C.
- 2 Reason: For the avoidance of doubt and in the interests of proper planning.
- 3 Condition: The development hereby approved shall be incidental to the use of the main dwelling and shall not be occupied at any time as a separate and un-associated unit of accommodation and shall at no time be used for business or commercial purposes.
- 3 Reason: For the avoidance of doubt and to safeguard the amenities of the locality in accordance with the NPPF.
- 4 Condition: The building hereby approved shall at no time be used for sleeping accommodation.
- 4 Reason: In order that the Local Planning Authority may retain control over the development due to the risk of flooding in accordance with the NPPF.
- 5 Condition: No development or other operations shall commence on site until the existing trees have been protected in accordance with the scheme as detailed in the Tree Report, prepared by Heritage Tree Specialists, Revision: September 2021 and ARBORICULTURAL IMPLICATIONS & TREE PROTECTION plan, Revision September 2021. The works shall be carried out in complete accordance with the said scheme, which is hereby approved by the Local Planning Authority.

The protective fencing and the ground protection shall be retained intact for the full duration of the development until all equipment, materials and surplus materials have been removed from the site. If the fencing or ground protection are damaged all operations shall cease until they are repaired in accordance with the approved details.

Nothing shall be stored or placed in any protected area in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made without the written approval of the Local Planning Authority.

- 5 Reason: To ensure that the existing trees and hedgerow are properly protected in accordance with the National Planning Policy Framework 2021.