

**AGENDA ITEM NO. 8/2(a)**

<b>Parish:</b>	<b>Brancaster</b>	
<b>Proposal:</b>	<b>Change of use from agricultural land to commercial with construction of new building</b>	
<b>Location:</b>	<b>Land East of 1 Saxon Field Main Road Brancaster Norfolk PE31 8DZ</b>	
<b>Applicant:</b>	<b>Mr T De Winton</b>	
<b>Case No:</b>	<b>20/02132/F (Full Application)</b>	
<b>Case Officer:</b>	<b>Mrs N Osler</b>	<b>Date for Determination: 19 March 2021 Extension of Time Expiry Date: 27 July 2022</b>

**Reason for Referral to Planning Committee** – Called in by Councillor Lawton and Officer Recommendation is contrary to Parish Council Recommendation

**Neighbourhood Plan:** Yes

### **Case Summary**

Full planning permission is sought for a commercial building housing 12 individual Class E units comprising: café / restaurant (x2), retail (x4), office (x3) and artisanal (workshop / craft units (x3)), access, car parking, outside seating areas and associated works are also proposed.

A new vehicular access is proposed to the east of the site with the existing field access being reduced to a pedestrian access with a pedestrian crossing proposed to link with existing footpaths to the north of the A149.

The building is single storey and of a horseshoe configuration constructed from a mixture of brick, timber and flint or chalk panels under an unspecified roof covering.

The gross internal area (GIA) of the units ranges between c.30m<sup>2</sup> and 50m<sup>2</sup> with a total GIA of c.470m<sup>2</sup> excluding the covered pathways.

The site lies outside of the development boundary in countryside with an agricultural grade of 2. The site is within the Area of Outstanding Natural Beauty and is located within the scheduled ancient monument of 'Brancaster Roman Fort (Branodunum.)

### **Key Issues**

Principle of Development

Business Need

Impact on Scheduled Ancient Monument

Form and Character and Impact on the Countryside and AONB

Highway Safety

Residential Amenity

Ecology

Other Material Considerations

Planning Committee  
20 July 2022

## Recommendation

**REFUSE**

### THE APPLICATION

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A new vehicular access is proposed to the east of the site with the existing field access being reduced to a pedestrian access with a pedestrian crossing proposed to link with existing footpaths to the north of the A149.

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### SUPPORTING CASE

None received at time of writing report.

### PLANNING HISTORY

No recent relevant history.

### RESPONSE TO CONSULTATION

**Parish Council: OBJECT** While the Parish Council agreed that this was an improvement on the previous plan, it agreed to object to the application as it felt the parking provision to be inadequate given the number of shops and the cafe, concerns over hygiene (only one WC being shown) and archaeological concerns raised by Historic England.

**Historic England: OBJECT** The proposed development site is located within the scheduled monument of 'Brancaster Roman Fort (Branodunum)' (List Entry Number 1003983).

Ground-disturbance for the proposed development would have a direct and adverse impact on any archaeological remains present within this part of the scheduled monument resulting in loss of archaeological evidence.

The proposed development would also have an impact on the setting of the scheduled monument. This would occur through the physical loss of part of the monument as open

space and through the introduction of buildings and infrastructure into what is currently a largely undeveloped landscape to the south of Main Road.

The direct impact on archaeological remains through ground-disturbance and change to the setting of the 'Brancaster Roman Fort (Branodunum)' scheduled monument would cause harm to the significance of this designated heritage asset.

The amended design and layout do not in any way address the fundamental matter of the harm to the significance of the 'Brancaster Roman Fort (Branodunum)' scheduled monument that would arise from the proposed development.

Historic England maintains its in-principle objection to the planning application on heritage grounds. We consider that the amended proposed development does not meet the requirements of the NPPF (2021), particularly paragraphs 199, 200 and 202. The level of harm to the scheduled monument is not outweighed by any public benefits of the proposals.

Historic England also considers that the amended development proposals would still be contrary to 'Policy DM 15 – Environment, Design and Amenity' of the Borough Council's 'Site Allocations and Development Management Policies Plan' which requires that, 'Development must protect and enhance the amenity of the wider environment including its heritage and cultural value'.

The development proposals would, in any form, also require Scheduled Monument Consent (SMC) from the Secretary of State of Digital, Culture, Media and Sport (DCMS). The requirement for SMC is completely separate from the need for planning permission.

Paragraph 20 of the DCMS Policy Statement on Scheduled Monuments (2013) states that for works to a scheduled monument for development-led purposes the Secretary of State has particular regard to the principle that, 'in cases that would lead to less than substantial harm to the significance of a Scheduled Monument the harm will be weighed against the public benefits of the proposal'. It goes on to say that, 'the potential to record evidence of the past is not considered by the Secretary of State to be an important factor in determining if SMC should be granted in such circumstances. Consequently, it will normally be given little weight'.

Historic England does not consider that the proposed development (in either its amended or original form) offers any public benefit that can be weighed against the harm to the significance of the scheduled monument. Consequently, Historic England would not be able to recommend to DCMS that Scheduled Monument Consent is granted.

Historic England recommend that the application is refused on heritage grounds.

**Norfolk Coast Partnership: NO OBJECTION** We welcome the reduction in glazing. We would like to see a condition on external lighting and that would include any proposed in the car park. Signage should be relatively discreet; we would not want to see large illuminated signs that would visually detract.

If permission is granted we would like to see external lighting conditioned.

**Natural England: NO OBJECTION**

**Conservation / Conservation Area Advisory Panel: NO OBJECTION** Overall the Panel considered that the amended proposal was an improvement on the previous scheme, particularly in terms of appearance and layout.

The Panel considered that Historic England's comments on the archaeological importance of the site were required.

The Panel also considered that the wall and tree belt should be retained, which enhanced the setting of the Conservation Area.

The Panel also queried whether the demand for the units outweighed any harm caused to the Conservation Area.

**Highways Authority: NO OBJECTION** Thank you for the consultation received recently relating to the above development proposal, which proposes a new access to the Eastern end of the site, with a proposed pedestrian connection at the western end, linking with the existing provision to the north, which would provide a suitable link to the site, subject to further design.

A recent case nearby highlighted a lack of compliance with vehicle entry speeds from the east, as such, I would require the provision of a 70m splay eastwards from the site access, which can be accommodated within the frontage verge.

The redesigned parking layout enables a turning space for larger vehicles and some overspill capacity, albeit limited, as such I would seek to remove permitted development rights from the site to ensure that events do not overwhelm the sites capacity.

Should your Authority be minded to the grant of consent, I would seek to append conditions relating to:

- New access details including gradient and visibility splays
- Closure of other access (other than the pedestrian access to the west)
- Parking provision in accordance with approved plans
- Off-site highway improvement works

**Community Safety and Neighbourhood Nuisance: NO OBJECTION** Amended plans have addressed all of CSNN's concerns. Please condition:

- external seating (to be confined to the areas shown on the amended plans)
- hours of operation
- hours of delivery
- provision of secure bin area (in accordance with amended plans)
- construction management scheme
- external Lighting
- external plant/external ventilation/external extraction details
- unit occupation and unit size (in accordance with amended plans)

**Internal Drainage Board: NO OBJECTION** The site lies outside the Internal Drainage District of the Norfolk Rivers Internal Drainage Board and as per our Planning and Byelaw Strategy the proposed application is classed as a minor development and does not meet our threshold for commenting. Therefore, the Board has no comments to make.

**Environmental Health & Housing – Environmental Quality: NO OBJECTION** Having reviewed the information in the application and our files, we find no sources of contamination and note the proposed development is relatively low sensitivity. As such we have no objections with regard to contaminated land.

**Arboricultural Officer: NO OBJECTION** I've looked at the above and I can confirm that I have no objections. A number of poor-quality trees are being removed, could we secure some decent replacements with a landscaping condition please?

## **REPRESENTATIONS**

**FOUR** letters of **OBJECTION** have been received from four objectors. The reasons for objection can be summarised as:

- There is no need for commercial premises in this location
- Commercial units in Brancaster Staithe were recently permitted to be demolished and replaced with housing as there was no demand for the units
- Likewise, over the past 3 years commercial sites in Docking have been given over to residential use
- Parking provision is not sufficient
- Highway safety due to the proximity of the access to the Branodunum junction
- The changes in the application are so significant that they deserved a new planning application
- The amended scheme appears better than the original one. However, this development will still result in unacceptable impacts on neighbours in terms of noise, lack of privacy, traffic congestion
- The development will fail and will therefore open the door for residential development.

## **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

**DM9** - Community Facilities

**DM15** – Environment, Design and Amenity

**DM17** - Parking Provision in New Development

## **NEIGHBOURHOOD PLAN POLICIES**

**Policy 2** - Design, Style and Materials

**Policy 7** - Development of Shops, Workshops and Business Units

**Policy 8** - Protection of Heritage Assets and Views

**Policy 10** - Protection and Enhancement of the Natural Environment and Landscape

## **NATIONAL GUIDANCE**

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

National Design Guide 2019

## **PLANNING CONSIDERATIONS**

The main issues for consideration in the determination of this application are:

Principle of Development

Business Need

Impact on Scheduled Ancient Monument

Form and Character and Impact on the Countryside and AONB

Highway Safety

Residential Amenity

Ecology

Other Material Considerations

Taking each aspect in turn:

### **Principle of Development**

Development of greenfield sites within the countryside is generally resisted unless essential for an existing rural enterprise. However, both the NPPF and Local Plan contain policies that enable such development in certain circumstances.

The NPPF states, at paragraphs 84 and 85, in relation to supporting a prosperous rural economy: *Planning policies and decisions should enable:*

- a) *the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*
- b) *the development and diversification of agricultural and other land-based rural businesses;*
- c) *sustainable rural tourism and leisure developments which respect the character of the countryside; and*
- d) *the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.*

*Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.*

Local Plan Policy CS10 has an enabling policy that also relates to Rural Employment Exception Sites and states: *The Council will support the rural economy and diversification through a rural exception approach to new development within the countryside; and through a criteria-based approach to retaining employment land and premises.*

- *Permission may be granted on land which would not otherwise be appropriate for development for an employment generating use which meets a local business need. Any development must satisfy the following criteria:*
- *It should be appropriate in size and scale to the local area*
- *It should be adjacent to the settlement*
- *The proposed development and use will not be detrimental to the local environment or local residents.*

Brancaster Neighbourhood Plan Policy also supports the development of shops, workshop and businesses units in appropriate locations (as defined by the Borough Council's Local Plan and by other development plan policies.)

Local Plan Policy DM9 that relates to community facilities encourages the provision of new facilities particularly in areas with poor levels of provision and in areas of major growth.

In summary there is support for rural employment outside of the development boundary where it can be shown that it would not have unacceptable impacts on local roads, be detrimental to the local environment or local residents and is appropriate in size and scale to the local area.

## **Business Need**

Cruso & Wilkin were instructed by the applicant to prepare a general overview as to the demand from local businesses for a development comprising retail units, office space, workshop/craft units and café, restaurants and food retail outlets.

The investigation covered the area from Old Hunstanton to Wells-next-the-Sea in an east / west direction (e.g. the A149) of which the site is relatively central and an area approximately 5 miles to the south of the A149.

The investigation included interviews with a number of professional and business owners as well as those dealing in commercial land and property.

The findings of the investigation are that: *there remains a genuine demand within the locality for retail, office, workshop/craft units and general storage within the coastal margin and feel that the proposal would expand and provide additional facilities and employment within the locality which would also enhance the tourist experience.*

It is acknowledged that permission was recently granted in Brancaster Staithe for the loss of three commercial units to residential following a period of being unable to let or sell them. The above investigation took this into account in their findings.

### **Impact on Scheduled Ancient Monument and Heritage Assets**

Paragraph 199 of the NPPF states: *When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*

It continues at paragraph 200 by stating that: *Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:*

- a) *grade II listed buildings, or grade II registered parks or gardens, should be exceptional;*
- b) *assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.*

And finally, in relation to this application, paragraph 202 states: *Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*

Historic England are very clear on their objection to this application on the basis of the harm that would be caused to Brancaster Roman Fort (Branodunum, a scheduled ancient monument) by ground-disturbance and impact on its setting that would occur through the physical loss of part of the monument as open space and through the introduction of buildings and infrastructure into what is currently a largely undeveloped landscape to the south of Main Road. Historic England are insistent that this harm would not be outweighed by the public benefit.

Additionally, they suggest that they would strongly resist the granting of Schedule Monument Consent by the Secretary of State if planning permission were granted.

Unfortunately, it appears this issue cannot be overcome, and great weight is given to the protection and preservation of the historic environment, particularly a site as important as this one.

The site lies to the west of the Conservation Area, and since the Conservation Area was designated Saxon Field residential area has been built creating separation between the site and the Conservation Area.

Whilst the Conservation Area Advisory Panel queried whether the need outweighed any harm they did not raise an objection on this basis, and in regard to the impact on the Conservation Area, your officers consider the public benefit would outweigh any harm.

However, given that the public benefit would not outweigh the harm to the Scheduled Ancient Monument the proposed development is contrary to the NPPF in general, and specifically to paragraphs 199, 200 and 202 of the NPPF, development plan policies CS01,



CS08 and DM15 that seek to protect the historic environment, and Brancaster Neighbourhood Plan Policy 8 that seeks to protect Heritage Assets.

### **Form and Character and Impact on the Countryside and AONB**

The site represents a relatively large gap that would not be completely infilled, between existing built form with Saxon Field to the west and The Corner Lodge to the east. The housing development known as Branodunum lies opposite the site.

Therefore, whilst within the countryside, the site abuts the existing development boundary, has built form on three of its four boundaries and is not isolated and could therefore be accessed on foot or by bike. However, as it the case with many rural locations, the dependence on the private car is acknowledged as is the fact that the units will have a high degree of tourism traffic.

Following the submission of amended plans reducing the height and amount of glazing and separating the car parking from Saxon Field by the proposed building it is considered that the scale, mass, design, layout and appearance of the amended scheme, which is now single storey and horseshoe in shape which is characteristic of rural agricultural developments is appropriate for the site and its wider setting.

Materials are not fully clear and therefore would be conditioned if permission were granted to ensure their appropriateness with Brancaster Neighbourhood Plan Policy 2.

It is therefore considered that the development would not be over-dominant or incongruous and detailed landscaping plans would be conditioned if permission were granted to ensure robust boundary planting and softening of the parking areas to lessen the impact of the development of the intrinsic character and beauty of the countryside and AONB.

In relation to the impact on the AONB, the Norfolk Coast Partnership raise no objection subject to conditions relating to external lighting and advertisements. It should be noted that advert consent is covered by separation legislation and would require independent application(s).

It is therefore considered that the proposed development accords with the NPPF and Local Plan Policies, including Neighbourhood Plan Policy 10, in relation to protection of the natural environment.

### **Highway Safety**

The Local Highway Authority has confirmed that parking provision is in accordance with current standards as updated in July 2022.

Visibility from the new access is adequate, turning space for larger vehicles, overspill capacity (on grassed areas) and off-site highway improvement works (pedestrian connection from western end of the site to existing provision to the north of the A149) are all acceptable.

Car park surfacing would be conditioned if permission were granted to ensure it was acceptable in terms of its visual and amenity impacts.

Whilst some third parties are concerned in relation to the proximity of the proposed access with the access of Branodunum and congestion, the Local Highway Authority has confirmed there are no technical reasons to object to the proposed development.

## Neighbour Amenity

Amended plans have addressed concerns raised by the LPA and CSNN in relation to neighbour amenity.

The main amendments in this regard are:

- The position of the proposed building which is at least 7m from the western boundary (shadow diagrams have been provided to show that overshadowing would not occur)
- The western boundary to be retained as a fence (no new fence) with reinforced hedging
- The western elevation of the building is solid, with brick and timber infill sections (no doors to this elevation are proposed)
- The boundaries to the east and south are proposed to be retained / reinforced where sparse, to retain the separation between the site and adjacent lands
- The timber bin enclosure has been moved away from the eastern elevation
- The parking (additional spaces) towards the eastern boundary is located away from the boundary (circa 7m) and finished with grass
- Conditional approval re Construction Management Scheme, External Lighting and hours of operation are noted and accepted
- Drainage from the site is proposed to connect into the mains systems within the road adjacent.

Whilst it is acknowledged that the proposal will have some impact on occupiers of adjacent dwellings, it is now considered that the development would not result in any unacceptable disamenity in the form of overlooking, overbearing, overshadowing, noise or nuisance.

**Ecology** An Ecological Report accompanied the application. The findings are as follows:

*Bats* : There are no trees or any other features within the survey area considered suitable for roosting bats. However, boundary features within the survey area are considered highly suitable for foraging bats. The likelihood of roosting bats being present within the site is therefore considered negligible, whilst the likelihood of foraging bats being present is considered high.

*Badger*: No signs or evidence of badger were observed within the site or as far as possible within 50m of the site. Habitats within the site offer moderate foraging opportunities for transient badger if present in the wider landscape. However due to the site being bound by walls, fences and hedgerows the likelihood of badger accessing the site is low.

*Water vole and otter*: No signs of water vole or otter were discovered within the site. Furthermore, there is no aquatic habitat suitable for water vole or otter within the site or surrounding the site. Water vole and otter are considered absent and are not considered further in this report.

*Hedgehog and brown hare*: Habitats within the survey area are considered highly suitable for foraging hedgehog and foraging and sheltering brown hare. Trees and hedgerows within the site did not provide enough cover suitable for hibernating hedgehog. Although no signs or evidence of either species was observed within the site, both species are considered likely present within the survey area.

*Birds*: Several species of bird were observed within the survey area including Wren, Blackbird and House Sparrow and numerous old woodpigeon nests were discovered within boundary hedgerows.

Trees and hedgerows within the site provide highly suitable habitat for nesting birds. Additionally, the grassland within the site provides good quality habitat for ground nesting birds. However, the grassland is of small size and close to the road which is likely to deter ground nesting birds. However, breeding bird presence in boundary trees and hedgerows is considered highly likely during the breeding season (1st March – 31st August).

There are no features within the proposed development area suitable for roosting or breeding barn owl. However, the grassland within the site is considered suitable for foraging barn owl. The likelihood of foraging barn owl being present within the site is considered moderate.

*Reptiles:* Hedgerows within the survey area have connectivity to other landscape features which could be considered suitable for transient reptiles (other hedgerows and woodlands). However, hedgerows within the site are not considered suitable for sheltering or hibernating reptiles as they are not established enough at their base. The likelihood of reptiles being present within the survey area is considered low.

*Amphibians:* There are no aquatic habitats within the survey area or within 250m of the site boundary. Hedgerows within the survey area have connectivity to other landscape features which could be considered suitable for terrestrial great crested newt (other hedgerows and woodlands). However, hedgerows within the site are not considered suitable for sheltering great crested newt as they are not established enough at their base. The likelihood of great crested newt being present within the survey area is considered low.

In summary, the proposed works are not envisioned to result in any significant negative impacts upon habitats within or surrounding the site or any nearby designated sites or other protected species providing the mitigation measures recommended are followed.

No Further surveys are required providing that site clearance works are carried out outside of the main breeding bird season.

Mitigation and enhancements (which includes the installation of at least two bat boxes and two-house sparrow nest boxes. Recommendations have also been made in regards to the creation of habitat pile and the use of native species for all planting and soft-landscaping works including the planting of trees at a ratio of 2:1 for all trees removed) can be suitably conditioned if permission is granted.

### **Other Material Considerations**

In relation to the Parish Council and third-party comments received your officers respond as follows:

- Under-provision of parking, archaeological concerns and lack of need are all covered in the main body of the report
- Insufficient WC provision – the amended scheme increased the number of WCs with each unit having its own provision
- The changes in the application should have resulted in a new application – the site area and description of development remained the same and there was therefore no reason to have the application withdrawn and resubmitted. All consultees and third parties were fully consulted on the amended plans
- Impact on neighbouring residential uses – these are covered above
- Residential will follow – any future application(s) would be considered on their own merits.

## **CONCLUSION**

On balance, it is considered that the development itself for a rural employment site would be supported by planning policy, and although it would clearly impact upon the countryside by introducing new development on a greenfield site, the benefits of the development would outweigh the detrimental impacts on the intrinsic character and beauty of the countryside and AONB. Such issues have also been reduced by a more traditional scheme which has been substantially amended from the original proposal. Other issues relating to highway safety and visual and neighbour amenity could be suitably conditioned.

However, the harm that would occur to Brancaster Roman Fort (Branodunum, a scheduled ancient monument) by ground-disturbance and impact on its setting is considered to be overriding in this case, and such harm would not be outweighed by the public benefit of the proposal.

It is therefore recommended that this application be refused for the following reason.

## **RECOMMENDATION:**

**REFUSE** for the following reason(s):

- 1 The proposed development would result in an unacceptable level of harm to the Scheduled Ancient Monument known as Brancaster Roman Fort. This would be by ground-disturbance that would have a direct and adverse impact on any archaeological remains present within this part of the scheduled monument resulting in loss of archaeological evidence and impact on its setting that would occur through the physical loss of part of the monument as open space and through the introduction of buildings and infrastructure into what is currently a largely undeveloped landscape to the south of Main Road. This harm would not be outweighed by the public benefit of the scheme and therefore the proposed development is considered to be contrary to the NPPF in general, and specifically to paragraphs 199, 200 and 202 of the NPPF, development plan policies CS01, CS08 and DM15 that seek to protect the historic environment, and Brancaster Neighbourhood Plan Policy 8 that seeks to protect Heritage Assets.