

## AGENDA ITEM NO: 8/2(a)

<b>Parish:</b>	<b>Emneth</b>	
<b>Proposal:</b>	<b>OUTLINE APPLICATION: Residential development ( including access)</b>	
<b>Location:</b>	<b>Pal-Mar Chapel Lane Emneth Wisbech</b>	
<b>Applicant:</b>	<b>Mrs B Palmar</b>	
<b>Case No:</b>	<b>22/00495/O (Outline Application)</b>	
<b>Case Officer:</b>	<b>Clare Harpham</b>	<b>Date for Determination: 19 May 2022 Extension of Time Expiry Date: 10 October 2022</b>

**Reason for Referral to Planning Committee** – The Parish Council object to the proposal which is at variance with the officer recommendation. Sifting Panel require that the application be determined at planning committee.

**Neighbourhood Plan:** No

### **Case Summary**

Outline planning permission with access being considered at this stage, is sought for residential development at Chapel Lane, Emneth. The indicative plan shows one dwelling with a new point of access for both the proposal and the donor dwelling.

The site lies within the development boundary of Emneth where residential development is acceptable.

### **Key Issues**

Principle of Development  
Appeal History  
Form and Character  
Impact upon Amenity  
Highways Issues  
Flood Risk  
Other material considerations  
Crime and Disorder

### **Recommendation**

**APPROVE**

## **THE APPLICATION**

The application site is an irregular shaped plot which lies on the northern side of Chapel Lane and comprises a shingle/gravel yard for parking, garage/storage buildings and part of

the frontage garden to Pal-Mar which is a detached bungalow. The application site is bounded to the side (east) by a 1.8m (approx.) close board fence and to the rear (north) by wooden fencing with hedging above (from the neighbours' side of the boundary). The site is currently open to the western side which is adjacent to the donor dwelling which is a detached bungalow.

This application is for outline permission, with only access being considered at this stage, and seeks consent for the residential development of the site. It is also proposed to accommodate parking for the existing dwelling to its frontage within the western side of the application site, due to the existing parking area being utilised for the proposed residential development.

## **SUPPORTING CASE**

The site lies within the established settlement of Elm, and is within the development boundary for Emneth, which is identified as a Key Rural Service Centre within the Development Plan. Policy DM2 states that development will be permitted within the development boundaries of settlements shown on the Policies Map. On the basis that the site is within the defined development boundary, the principle of the development is acceptable in accordance with Policy DM2.

The site is located within Flood Zone 1 of the Environment Agency's flood maps for planning. Section 14 of the NPPF require proposals to adopt a sequential approach to flood risk by locating development within areas at lowest risk of flooding in the first instance. Given that the proposal is located on land at lowest risk of flooding it is within a sequentially preferable location. Therefore, the principle of the development is acceptable in terms of flood risk.

In addition, the Local Planning Authority raised no concern in respect of the principle of development or the subdivision of the site in their consideration of the previous application on site, reference 21/0140/O.

Application 21/0140/O was for outline planning permission for 2 dwellings and was the subject of a Planning Appeal reference APP/V2635/W/22/3294135. In their consideration of the application the Inspector focussed on the issues of the character and appearance of the area and the living conditions of future occupiers by way of privacy.

The Inspector considered that the area is characterised by a mix of properties, mainly detached houses and bungalows of varied design. However, felt that the development of the plot for 2 dwellings would represent overdevelopment given the need to fit access, car parking and private amenity space for each plot. Accordingly, it was considered that the proposal would be out of keeping with the character of the surrounding area. Noting the comments raised by the Inspector, the scheme has been reduced to a single dwelling which provides ample space for parking and private amenity space for the proposed dwelling. The concerns raised in the appeal decision with regard to character and appearance are therefore overcome.

The Inspector further considered that with two dwellings on site it would be likely that harm would be caused to the living conditions of the occupiers of at least one of them by reasons of lack of privacy due to the proximity to Violet Cottage. Given that the scheme has now been reduced to a single dwelling there is more space available on site, allowing for adequate screening to protect the proposed private amenity area without harming the living conditions of Violet House. The indicative site plan provides an example of how this can be achieved, with the specific details of the scheme to be secured at Reserved Matters stage.

Concerns with regards to the living conditions of future occupiers by way of privacy are therefore overcome.

The site has now been legally separated from the donor property at Pal-Mar and the unsafe buildings have been removed from the land. The site is an unattractive parcel of land which currently causes visual harm to the street scene. The redevelopment of the land represents an excellent opportunity to enhance the visual appearance of the site which will be to the significant benefit of the character and quality of the area.

## **PLANNING HISTORY**

21/01040/O: Application Refused: 27/01/22 - Outline application for erection of 2 dwellings (with matters committed in respect of access only) - Pal-Mar Chapel Lane Emneth

Appeal Dismissed 01/09/22

## **RESPONSE TO CONSULTATION**

### **Parish Council: OBJECT**

The Parish Council object on the grounds of over-intensive development for the plot size and would question the amount of parking / access / egress space available in an already congested spot in the parish. Chapel Lane is a very narrow road already littered with on-street parking.

### **Highways Authority: NO OBJECTION**

I observe that access only is to be considered at this stage. The revised position of the proposed access for the proposed new dwelling is acceptable.

To address the loss of parking for the existing donor property a new point of access has been proposed, which could be acceptable with conditions, but it would also require associated replacement parking. In this respect I can foresee the proposed plot of land being sold off to a third party and the parking for the donor property being left unresolved. I therefore recommend that the parking provision for the donor property be conditioned at this stage and I therefore recommend conditions relating to construction of the proposed access points, withdrawal of permitted development for gates etc, a parallel visibility splay and the parking provision for the donor dwelling (Pal-Mar).

### **Environmental Health & Housing - Environmental Quality: NO OBJECTION**

The application is for the construction of a dwelling. The applicant has provided a screening assessment which states no known contamination. We have reviewed our files and the site is on land that is first seen occupied by the donor site in historic maps dated 1945-1970. The surrounding landscape is largely residential. The site is approximately 55m from the Wisbech Canal Landfill site. This site has been investigated by the Council due to obligations under Part 2A of the Environmental Protection Act 1990. There is no evidence to show significant risk of harm from the site and does not raise any concerns for this application. There are no concerns regarding contaminated land.

Due to the age of the outbuilding on site there is the potential for asbestos containing materials to be present in its construction. Therefore, an informative is recommended regarding asbestos.

## **REPRESENTATIONS**

### **ONE letter of COMMENT**

- The northern boundary of the development would be the responsibility of the developer / applicant as has been the case.
- The method of foul drainage is stated as unknown.
- States surface water will be dealt with by soakaway. The proposal will increase housing density, if there is increased frequently of extreme rainfall leading to standing water and surface water run-off, ascertaining levels and ensuring adjacent properties are not affected is important.
- There is a monkey puzzle on north-western boundary on neighbours land, it is 45 years old and should not be compromised by the development.

## **LDF CORE STRATEGY POLICIES**

**CS01** - Spatial Strategy

**CS02** - The Settlement Hierarchy

**CS06** - Development in Rural Areas

**CS08** - Sustainable Development

**CS09** - Housing Distribution

**CS11** - Transport

## **SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016**

**DM1** – Presumption in Favour of Sustainable Development

**DM2** – Development Boundaries

**DM15** – Environment, Design and Amenity

**DM17** - Parking Provision in New Development

## **NATIONAL GUIDANCE**

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

National Planning Policy Framework – sets out the Government’s planning policies for England and how these are expected to be applied.

National Planning Practice Guidance - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

National Design Guide 2019

## **PLANNING CONSIDERATIONS**

The main issues to consider when determining this application are as follows:

- Principle of Development
- Appeal History
- Form and Character
- Impact upon Amenity
- Highways Issues
- Flood Risk
- Other material considerations
- Crime and Disorder

### **Principle of Development**

The application site is located within the development boundary of Emneth as identified within the Site Allocations and Development Management Policies Plan (SADMPP) 2016 and as such the principle of residential development is acceptable.

### **Appeal History**

Outline planning permission was refused in January 2022 (21/01040/O) for the erection of 2 dwellings (with matters committed in respect of access only) at the application site. It was considered that the introduction of two dwellings onto the irregular shaped plots of limited depth, would result in a cramped form of development which would be at odds with the form and character of the locality. In addition the first floor window in the south-western (side) elevation of the neighbouring dwelling to the east (Violet House) is in close proximity to the boundary and it was considered that there would be inadequate private amenity to the proposed plot 1 given the relationship between the plot and the first floor overlooking window. This refusal was considered at appeal and on 1st September 2022 the appeal was dismissed. The Inspector concluded that the proposed development (two dwellings) would be harmful to the general character and appearance of the area around Chapel Lane, by virtue of a cramped nature and appearance, and that it would have a harmful impact on the amenity of future occupiers of the proposed development by way of overlooking and outlook.

While the description of the proposal is 'residential development,' the application form does state that it would be for one market dwelling and this could be conditioned. It is considered that the current proposal, by virtue of reducing the number of proposed dwellings, would overcome the comments made by the Inspector in support of the dismissal. The Inspector's comments relating to overdevelopment and amenity will be considered in the sections on form and character and amenity below and a copy of the appeal decision can be found in Appendix 1.

### **Form and Character**

Chapel Lane runs south-west from its junction with Elm High Road, before running north-west towards High Road. The area is characterised by a mix of dwellings, with both single and two-storey dwellings as well as detached and semi-detached properties. There is also a mix of plot sizes with the plot to the immediate north-east being a semi-detached two storey dwelling in a limited size plot, with the donor dwelling on the other south-western side being a wide fronted bungalow, in a wide but shallow plot of irregular shape. The current plot belonging to this bungalow (Pal-Mar) is proposed to be roughly split in half, with one containing the existing bungalow with a new vehicular access to the front, and the other half being the application site where one dwelling and associated detached garage is indicated.

It is noted at this stage that the application is for outline planning permission (access only) and so the final layout of the new dwelling is unknown.

The Parish Council object to the proposal on the grounds of over-intensive development for the plot size and also question the amount of parking / access / egress space available in what they say is already a congested part of the Parish.

It is your officers' opinion that the siting of a single dwelling has removed the sense of overdevelopment that would have occurred with the previously refused application (21/01040/O) that was dismissed at appeal. The Inspector commented that 'In fact, the new replacement access is already in place and, in my opinion, the addition of this access into what would become a much reduced plot, increases the sense of overdevelopment that would result from the development of two further dwellings on the appeal site, with further accompanying access to serve each one. This would be particularly the case given the narrow and constrained nature of Chapel Lane itself.' Whilst the Inspector made comment regarding the new parking to the front of Pal-Mar increasing the sense of overdevelopment, this was in the context of two further dwellings and their associated access points being sited within the application site and it is considered that the reduction of the number of proposed dwellings to one and its associated access, has reduced this sense of overdevelopment.

The Indicative Site Plan (drawing SE-1626/PP2000RevB) indicates how a dwelling and garage 'could' be sited on the application site, however it is considered that given the limited depth of the site, the proximity of the dwellings on the opposite side of Chapel Lane which is of a limited width, and the windows on the south-western elevation of Violet House (neighbour to the north), it is considered that a single storey dwelling would be more appropriate in this location. Therefore, while layout, scale, and appearance are reserved matters, a condition will be placed on the decision notice to limit the development on site to a single dwelling and garage which are single storey (this has been agreed in writing by the agent).

Therefore, whilst the indicative drawing illustrates a 1 and ½ storey dwelling which is considered too large and too far forward in the plot given its scale, it is considered that a more modest single storey dwelling could be sited on the plot which would be acceptable given the mix of dwellings in the locality. The proposal therefore complies with paragraph 130 of the NPPF 2021, Policies CS06 and CS08 of the Core Strategy 2011 and Policies DM2 and DM15 of the SADMPP 2016.

### **Impact upon Amenity**

Whilst the application is for outline planning permission and therefore the layout, scale and appearance of the dwelling is currently unknown the impact of a potential development on the neighbouring dwellings has been considered.

The donor dwelling (Pal-Mar) would be to the south-west of a proposed dwelling and has a 'conservatory style' side porch located on its north-eastern elevation. There are also two side windows which look like they are secondary windows. It is considered that a single storey dwelling could be sited on the plot which would not have a material impact upon this elevation/neighbour with regard to overlooking overshadowing or being overbearing.

The neighbour to the north-east has been considered. This neighbour is a two-storey semi-detached dwelling which has a number of windows in its side elevation (south-west) which face the application site. There is a ground floor dining room window and a first-floor bedroom window, both of which are located just over 5 metres from the rear corner of the application site. There is also a further first floor bedroom window set back further behind the rear corner of the application site. This would have the potential to cause both overlooking of

the application site by these first-floor windows and also care must be taken when considering layout and scale to ensure that these windows are not adversely impacted with regard to outlook and any overbearing impact that the future development may have (it is noted that at the current time this neighbour has a shed placed in this location between the shared side boundary and the dining room window).

The indicative plan shows a substantial garage located in this rear corner location and it is considered that this would not be acceptable, as whilst it may help screen the rear of the proposed dwelling, it would have an adverse impact upon the amenity of the occupants of Violet house due to its indicative height and proximity to these windows. It is proposed to remove permitted development rights on any approval, to ensure that the proposed dwelling could not be raised in height at a future date, nor allow the erection of any outbuildings in close proximity to this neighbour's habitable rooms.

Chapel Lane is narrow, with the two storey dwellings on the opposite side of the road sitting in fairly close proximity to the road. There is a plot with extant outline planning permission directly opposite the application site (20/01857/O) and whilst the final layout is not known, the dwelling will be set further back within its plot than the existing dwellings in order to allow for parking. It is considered that while the road is narrow, it would be possible to site a single storey dwelling on the site that would not adversely impact upon the amenity of these dwellings opposite, including the plot which has extant outline consent.

The Inspector in his appeal decision stated 'The appellant contends that the privacy of occupiers of the dwelling on that plot could be protected by way of additional landscaping or the erection of an outbuilding. However, the constrained nature of the appeal site makes it unlikely that there would be room for sufficiently strong landscaping or an outbuilding to be placed on the plot, along with the provision for adequate private amenity space, car parking, and the dwelling itself.' However, it is noted that the appeal decision relates to a much smaller plot, as the application site was originally subdivided and proposed the erection of two dwellings. This application before you has reduced the proposed number of dwellings so that there is more room to provide sufficient screening.

Overall, whilst the final layout, scale and appearance is not known at this time, it is considered that it would be possible to site a modest single storey dwelling on the plot which would not adversely impact upon the neighbouring dwellings and which could be designed to have some private amenity space which would not be overlooked by the first floor windows in Violet House to the north-east, nor cause an adverse impact upon this neighbour. The proposal therefore complies with paragraph 130 of the NPPF 2021, Policy CS08 of the Core Strategy 2011 and Policy DM15 of the SADMPP 2016.

### **Highways Issues**

The application site is located on the existing parking area for the donor dwelling, known as Pal-Mar and therefore the construction of a dwelling on this plot would result in the loss of the existing parking / turning area. Therefore, the application also includes the provision of a new access with associated parking to the front of the existing bungalow and it is also proposed to move the existing point of access further east.

The Parish Council object to the proposal and question the amount of parking / access / egress space available in this congested spot. Chapel Lane being very narrow and already having on-street parking.

This outline application includes access to be considered at this stage and there are no objections to this proposal from the Highways Officer who requests that the access and

parking provision for the donor dwelling also be conditioned at this time to ensure that this work is carried out so that there is sufficient off-road parking.

The application therefore complies with paragraph 110 of the NPPF 2021, Policy CS11 of the Core Strategy 2011 and Policy DM15 of the SADMPP 2016.

### **Flood Risk**

The application site is located within Flood Zone 1 of the council's Strategic Flood Risk Assessment (SFRA) and therefore does not require a flood risk assessment. It is indicated that in the event of a flood event the area would become a dry island and therefore an informative will be placed on any approval indicating the applicant should prepare a flood evacuation plan.

The application indicates that surface water will be disposed of via soakaways. This has been queried by a neighbour and whether this would be sufficient in times of more severe weather. There is no reason to think that this would not be adequate, however soakaways will have to meet the standards laid out within building regulations.

The application does not confirm the method of foul water drainage and therefore the agent has agreed to a pre-commencement condition relating to this as the final method is not known at the present time.

The application complies with paragraph 159 of the NPPF 2021 and Policy CS08 of the Core Strategy 2011.

### **Other material considerations**

There is a comment from the neighbour to the north which relates to a monkey puzzle tree which is close to the rear boundary of the application site. This tree looks to be set back away from the boundary, however when reserved matters are submitted, should the proposed dwelling be sited in close proximity to the rear boundary and this tree, an Arboricultural Impact Assessment could be requested if necessary and a Method Statement if appropriate.

There are no objections to the proposal from Environmental Quality although an informative has been requested regarding the Control of Asbestos Regulations as the age of the outbuildings on site means there is the potential for asbestos containing materials to be present in its construction.

### **Crime and Disorder**

There are no issues relating to crime and disorder associated with this application.

### **CONCLUSION**

Notwithstanding the recently dismissed appeal (Appendix 1), where the Inspector concludes that the proposed development of two dwellings, with associated parking for both these dwellings and the donor dwelling, would be 'harmful to the general character and appearance of the area around Chapel Lane, by virtue of a cramped nature and appearance, and that it would have a harmful impact upon the amenity of future occupiers of the proposed development by way of overlooking and outlook.'



It is considered that, on balance, a single storey dwelling could be sited on the application site without having an adverse impact upon the character and appearance of the locality nor having a detrimental impact upon either the amenity of neighbours or the future occupants of the dwelling. The proposal would comply with the provisions of the NPPF, Policies CS02, CS06, CS08 and CS11 of the Core Strategy 2011 and Policies DM2, DM15 and DM17 of the SADMPP 2016 and as such is recommended for approval.

## **RECOMMENDATION:**

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

- 1 Condition Approval of the details of the layout, scale, appearance and landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority before any development is commenced.
- 1 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted to the Local Planning Authority in writing and shall be carried out as approved.
- 2 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 3 Condition Application for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 3 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 4 Condition The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the latest such matter to be approved.
- 4 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 5 Condition The development hereby permitted shall be carried out in accordance with the following approved plan SE-1626-PP2000RevB with regard to access only.
- 5 Reason For the avoidance of doubt and in the interests of proper planning.
- 6 Condition No development shall commence until full details of the foul water drainage arrangements for the site have been submitted to and approved in writing by the Local Planning Authority. The drainage details shall be constructed as approved before any part of the development hereby permitted is brought into use.
- 6 Reason To ensure that there is a satisfactory means of drainage in accordance with the NPPF.

This needs to be a pre-commencement condition as drainage is a fundamental issue that needs to be planned for and agreed at the start of the development.

- 7 Condition The one residential dwelling hereby approved shall be single storey only.
- 7 Reason For the avoidance of doubt and to safeguard the amenities of the locality in accordance with the NPPF.
- 8 Condition Notwithstanding the provisions of Schedule 2, Part 1, Class A, Class AA, Class B and Class E of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the enlargement, improvement or other alteration of a dwellinghouse; the enlargement of a dwellinghouse by construction of additional storeys; additions etc to the roof of a dwellinghouse; and buildings etc incidental to the enjoyment of the dwellinghouse shall not be allowed without the granting of specific planning permission.
- 8 Reason In order that the Local Planning Authority may retain control of the development which might be detrimental to the amenities of the neighbour and locality if otherwise allowed by the mentioned Order.
- 9 Condition Prior to the first use of the development hereby permitted the vehicular / pedestrian / cyclist access for the dwelling, as well as the dwelling known as Pal-Mar, shall be constructed in accordance with the highways specification TRAD 5 and thereafter retained at the positions shown on the approved plan. Arrangement shall be made for surface water drainage to be intercepted and disposal of separately so that it does not discharge from or onto the highway.
- 9 Reason To ensure construction of satisfactory access points and to avoid carriage of extraneous material or surface water from or onto the highway in the interests of highway safety.
- 10 Condition Prior to the first use of the development hereby permitted the proposed access / on-site car parking area for Pal-Mar shall be laid out, levelled, surfaced and drained in accordance with the approved plan SE-1626-P2000RevB and retained thereafter available for that specific use.
- 10 Reason To ensure the permanent availability of the parking / manoeuvring areas, in the interests of satisfactory development and highway safety.
- 11 Condition Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order (2015), (or any Order revoking, amending or re-enacting that Order) no gates / bollard / chain / other means of obstruction shall be erected across the approved access unless details have first been submitted to and approved in writing by the Local Planning Authority.
- 11 Reason In the interests of highway safety.
- 12 Condition Prior to the first occupation of the development hereby permitted 2.4 metre wide parallel visibility splay (as measured back from the near edge of the adjacent highway carriageway) shall be provided across the whole of the site's roadside frontage and additionally along the flank frontage of the adjacent property as outlined in blue on the submitted details. The splay(s) shall thereafter be maintained at all times free from any obstruction exceeding 1.05 metres above the level of the adjacent highway carriageway

- 12 Reason In the interests of highway safety in accordance with the principles of the NPPF.